ing which make a peaceful, productive and equitable solution to the North Sea problem appear imminent.

The thrust of our argument questioned whether having this matter within the jurisdiction of the United Nations would have unscrambled this situation in anywhere near the time frame than this more practical handling was able to, nor could we predict that United Nations handling would have provided any more equity than that which was worked out on a regional basis.

There are broad ramifications that can make a very definite contribution to the emerging patterns of the body of law relating to the resources of the sea where competing national interests impinge one upon the other. The North Sea experience suggests positive ramifications.

A large portion of the law will have to come into being based upon practical experiences similar to that resulting from the North Sea situation where the benefits of cooperation easily outweigh the benefits which may accrue from an antagonistic and aggressive posture.

The world's existing mineral laws, operating above the sea have evolved in an orderly manner from centuries of struggle with problems far less complex than these. Together with a maturation of the U.N., we ought to look toward a maturation of the law of the sea, before burdening it with additional, and perhaps naive codes. It would be wise to let the scientists precede the lawyers in this field. Case law seems far more practical than codes prefabricated in an unknowledgeable vacuum.

The issues are highly complex, the political dangers great, and the economic consequences potentially enormous. A great degree of caution is vitally necessary.

SENATE

FRIDAY, AUGUST 25, 1967

The Senate met at 12 o'clock meridian, and was called to order by the President pro tempore.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Our Father God, we are grateful for the sweet time of prayer, that calls us from a world of care, and bids us at our Father's throne make all our wants and wishes known.

At this altar of devotion we would be sure of Thy presence ere pressing duty leads us back to a noisy, crowded way.

Kindle on the altar of our hearts a flame of devotion to freedom's cause in all the world that, in its white heat, shall consume every grosser passion.

Heal the divisions which shorten the arm of our national might as we stand at this crossroads of history.

As here we face the questions which confront us, and almost confound us, give us to know clearly the things that belong to our peace, and to the peace of the world, in righteousness and justice.

We ask it in the dear Redeemer's name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, August 24, 1967, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting a nomination was communicated to the Senate by Mr. Jones, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session,

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting the nomination of Lawrence A. Whipple, of New Jersey, to be U.S. district judge for the district of New Jersey, which was referred to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed a bill (H.R. 2516) to prescribe penalties for certain acts of violence or intimidation, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 158) to amend section 209 of the Merchant Marine Act, 1936, so as to require future authorization of funds for certain programs of the Maritime Administration, and it was signed by the Vice President.

PENALTIES FOR CERTAIN ACTS OF VIOLENCE OR INTIMIDATON

Mr. MANSFIELD. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 2516.

The PRESIDING OFFICER laid before the Senate H.R. 2516, to prescribe penalties for certain acts of violence or intimidation, and for other purposes, which was read twice by its title.

Mr. MANSFIELD. Mr. President, I send to the desk a motion on behalf of the minority leader and myself.

The PRESIDING OFFICER. The motion will be stated.

The LEGISLATIVE CLERK. Motion offered by the Senator from Montana [Mr. MANSFIELD], as follows:

Ordered, That the bill H.R. 2516 be referred to the Committee on the Judiciary and that said committee be instructed by the Senate to report the bill to the Senate within 60 days from today.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

A TRIBUTE TO SENATOR MANSFIELD

Mr. DIRKSEN. Mr. President, last night some 1,500 or more people gathered at the Sheraton Park Hotel in Washington to honor our distinguished majority leader, MIKE MANSFIELD, and Mrs. Mansfield.

The occasion actually was a dinner not only to honor the majority leader but also to observe what is underway at the University of Montana, through their foundation, in setting up what are known as the Mike Mansfield lectures.

I am delighted that the drive to make this possible has been an outstanding success and that the goal of the foundation has been achieved.

On the occasion last night, our distinguished majority leader delivered what I thought was a very impressive speech, and it is my delight and my pleasure to submit it as a part of my remarks, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

IN A MONTANA MOOD

(Remarks of Senator MIKE MANSFIELD, Democrat, of Montana, at the University of Montana Foundation Washington Dinner, Sheraton-Park Hotel, Washington, D.C., August 24, 1967)

It has been said that the two great loves of my life are the University and the study of foreign affairs. I readily acknowledge a lasting liaison with the first and a deep absorption in the second.

The University and foreign affairs are indeed great loves. But, there is another which is greater and comes before both. That is the State of Montana—the Land of the Shining Mountains and the High Plains—and its people.

For a quarter of a century, Montanans have trusted me, as one of them, to represent their concerns, first in the House and then in the Senate of the United States. I have tried to sustain that trust by following the basic principle: If I do not forget the people of Montana, they will not forget me.

So for a quarter of a century, Montana's people, regardless of politics, position, power or profession, have come first with me. That is as it always has been. That is as it always will be.

That bond that ties me to Montana is woven of many strands. But before all else, it involves my personal feelings, as a citizen of the State, for its beauty, history, and people. For you who are not of Montana, let me try to tell you why the bond is inseparable, insofar as I am concerned. Let me try to explain to you why Montanans who are

outside of Montana are always homesick for Montana.

To me, Montana is a symphony.

It is a symphony of color. It is painted by a thousand different plants and shrubs which set the hills ablaze—each with its own kind of inner fire—during spring and summer. Montana is the intense blue of the Big Sky reflected in the deep blue of mountain lakes and the ice-blue of tumbling streams. It is the solid white of billowing clouds and the haze-white of snow on a hundred mountain peaks. It is the infinite themes of green in mile after mile of farm-rich valleys and in millions of acres of forests.

We, who are of Montana, know the color-harmony of a springtime of mill ons of wild flowers—the orange poppies, purple heather, yellow columbines, red Indian paintbrush, beargrass, and purple asters in the mountains; the tiger lilies, dogtooth violets, Mariposa lilies, bitterroot and kinnikinnick in the foothills; the shooting stars, daisies, larkspur, yellow bells, and sand lilies in the plains.

And in the long winter, we know the muted music of the snows which blanket the State. A theme of hope runs through these snows because they are the principal storehouse of the State's great natural resource of water. In one year the amount which will flow out of the mountains and rush down the hills is enough to fill Montana from boundary to boundary to a depth of six inches. And bear in mind that Montana's 94 million acres make the State as large as the entire nation of Japan with its 100 million people.

Montana is a symphony. It is a symphony of color and it is a symphony of sounds. Listen to them for a moment, in the names of places. There are mountain ranges called the Beaverhead, the Sapphire, the Ruby, the Bear Paws, the Highwoods, the Snowies, the Beartooths, the Judiths, the Crazies, and the Big Belts. And, incidentally, there are also the Little Belts as well.

There are streams whose names sing: The Silver Bow, the Flathead, the Kootenai, and the Sun; the Jefferson, the Madison, the Gallatin and the Musselshell; the Milk, the Yellowstone, the Tongue, the Powder, the Blackfoot, and the Boulder.

And when the roll of Montana's cities and towns is called, you hear: Eureka, Chinook, Whitefish, Cut Bank; Circle, Hungry Horse, Absarokee, Butte, Wolf Point, and Great Falls. And you hear Lodge Grass, Lame Deer, Deer Lodge, Crow Agency, Big Fork, and Twodot.

These and a hundred others like them are strains in the history of the State. Each has a story and, together, they sing the story of Montana.

It began in a mist of time, with Indians—with the Crows, the Blackfeet, the Assiniboine, the Flatheads, the Chippewa-Crees, the Sioux, and the Northern Cheyennes. Then came Lewis and Clark and the great fur trading companies. When the boom in pelts died, the gold rush began. At Grasshopper Creek in 1862, the find was so rich, it was said that miners could pull up sage brush and shake a dollar's worth of dust out of the roots. The town of Confederate Gulch grew on gold. In six years, the population jumped from zero to ten thousand people. In the seventh, the gold was gone and only 64 lonely souls remained.

Indians, fur and gold echo in the overture to Montana's history and throughout, runs the beat of the famous and infamous, the hunted, the haunted, the violent and the pacific and the politic. There was, for example, the notorious Henry Plummer who, as Sheriff of Bannack, engineered the bushwhacking murders of 102 of the citizens he was supposed to protect before he was hung by the Vigilantes. But there was also the Methodist minister Wesley Van Orsdel—Brother Van—who got off a steamer at Fort Benton in 1872 and went directly to the Four Deuces saloon to preach his first sermon; the saloon closed, respectfully, for one hour for the service. And there is Jeanette Rankin, a distinguished lady of Montana, the first woman member of Congress whose abhorrence of violence in every form was so deeply felt that she was compelled to vote her conscience against the nation's entry into World War I and World War II. And there were such political "greats" as our first Territorial Governor, Thomas Frances Meagher, one of the Republics truly great Senators Thomas J. Walsh, Burton K. Wheeler, James Murray, Joe Dixon, and others in the Congress.

Silver came after gold. It was struck rich in places like Argenta, Butte, Granite, Castle, Elkhorn, Monarch, and Neihart. But, when Congress dicontinued the purchase of silver in 1892, the silver camps were added to the ghost towns which dotted the lonely gold trails.

Then it was copper's turn, at Butte and Anaconda in Western Montana. The struggle for copper was of such proportions that it set off political and economic reverberations which are felt even today not only in the State, but in the nation, and throughout the world.

While some dug into Montana's earth for wealth, others sought it from what grew out of the earth. Stockmen filled the rolling grass-covered high plains of Central and Eastern Montana with cattle and sheep. In scarcely ten years, the cattle population rose from a few thousand to over a million. Then the cruel winter of 1886–87 froze 90 percent of them into grotesque ice sculptures on the plains and another Montana "boom" went "bust."

Beginning in the 19th century, railroads run through the symphony of Montana. Sledges in the gnarled hands of a hundred thousand immigrants pounded down the parallel steel ribbons, mile-upon-mile. The iron horses came rushing out across a continent. The Great Northern advertised free government land in a region of "milk and honey" to lure settlers to its line. They came in eager droves from Scandinavia, Germany, Mexico, Poland, Yugoslavia, France, Italy, Spain, the United Kingdom, Ireland and a score of other countries. They made agriculture, mining and lumbering the State's chief industries. But the great drought of 1917 took away the milk and honey and left only a parched and stricken land and a hurt and wiser people.

Montanans drove, tumbled and stumbled into the 20th century. The State has picked itself up and started over again many times. Its history is of a people drawn from many sources, headed toward the glowing promise of the Western frontier. It is of a people who have known the collapse of hope and the renewal of hope. It is of a people who have lived in intimacy with fear as well as courage and with cruelty as well as compassion. It is of a people who have known not only the favor but the fury of a bountiful and brooding Nature. The history of Montana is the song of a people who, repeatedly shattered, have held together, persevered and, at last, taken enduring root.

Now the 20th century moves on toward the 21st and the ups and downs of the past yield to the more stable present. The State has grown out of a dependency upon a single extractive industry. The old threat of spring flooding and summer drought grows dimmer as Yellowtail, Canyon Ferry, Hungry Horse and other dams—great and small, public and private—have risen to discipline the rushing waters. The cold temperatures—a reading of 70° below zero has been recorded at Rogers Pass—have yielded to modern heating. And the hot temperatures—it once reached 117° above in Glendive—are tempered in Montana as elsewhere by air conditioning to match its cool nights. Plane travel cuts the huge distances and the immense isolation. Indeed, the virtues of Montana's space, clean air, and clean water, scenery and unparalleled recreation opportunities are becoming better known and look ever more inviting to the rest of the nation.

Modern transition notwithstanding, something remains in the State that is durably unique and uniquely durable. It is to be found in the character of the people. Montanans are formed by the vastness of a State whose mountains rise to 12,000 feet in granite massives, piled one upon another as though by some giant hand. To drive across the State is to journey, in distance, from Washington, D.C. north to Toronto, or south to Florida. In area, we can accommodate Virginia, Maryland, Delaware, Pennsylvania and New York, and still have room for the District of Columbia.

Yet, in all this vastness, we are far less than a million people. In short, Montanans have room to live, to breathe and, above all, to *think*—to think with a breadth of view which goes to the far horizon and beyond. Vast and empty space and high mountains may isolate a population, but they open the minds of a people. The minds of Montanans dwell not only upon community and State, but upon the nation and the world and on the essential unity of all. And this sense of unity is buttressed by the harsh uncertainties of an all powerful environment which has taught us to draw together in a mutual concern for one another and to be hospitable to all who come from afar.

So in a sense, a lecture series on international relations which is proposed to be initiated at the University of Montana will be doing what comes naturally to Montanans, because it promises to open up new channels of understanding between us and our unseen neighbors on this globe. The series will stimulate, I am sure, deeper insights and greater comprehension of the nation's relationships with the people who live on all of its horizons.

I need not tell you that the realization that this process will be taking place under the aegis of my name fills my heart to the full. It is far more than I ever expected when I came to Washington to represent Montana in the Congress a quarter of a century ago. It is far, far more than I deserve.

Indeed, I should like this honor to go where it is most due—to the woman who set out with me from Butte so long ago and who has remained a wise counsellor and steadfast inspiration through all these years. Without her, I would not be in the Congress of the United States. Indeed, I should not have reached the University of Montana or for that matter even received a high school certificate. A more appropriate title for the lecture series, therefore, would be "The Maureen and Mike Mansfield Lectures."

May I suggest, too, that if the response to the effort on which you have embarked is a good one, a modest maximum should be established for the capital of the Fund for the lectures on international affairs. If any additional monies should become available beyond that maximum, I should like to see the excess go into scholarships for the children of Montanans—and the nation's—first Americans who have not always had benefit in equal measure with the rest of us from Montana's development and the nation's progress. I refer to my friends and brothers—the Northern Cheyennes, the Crows, the Flatheads, the Assiniboines, the Blackfeet, the Chippewa-Crees, the Landless and all the others who live with us in Montana.

I suggest this procedure because the Lecture series by its very nature turns our attention to the world beyond our borders and to the promise of a fruitful future for Montanans and all Americans. It is good that our attention is so directed *provided* we are also prepared to look inward and backward and so, remember what it is that we are building upon; and so, try to fill the gaps and to heal the hurts which may have been opened in the process of arriving at where we are. In that way, we shall better tie the past into the present and open wider the horizons of

the future. In that way, we shall better bind together, into a greater nation, all who live in a great State and in a blessed land.

I wish that, tonight, I could have more adequately conveyed to you the thoughts on my mind and the feelings—the deep feelings in my heart. But words are inadequate when the mind and heart are too full.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees of the Senate except the Committee on Finance be permitted to meet during the session of the Senate today.

The PRESIDING OFFICER (Mr. SPONG in the chair). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 507, H.R. 3717, and Calendar No. 523, S. 222.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the first bill.

MRS. M. M. RICHWINE

The bill (H.R. 3717) for the relief of Mrs. M. M. Richwine was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 522), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to pay Mrs. M. M. Richwine, of Chevy Chase, Md., $100 in full settlement of her claim against the United States for payment based on a $100 U.S. postal money order held by her numbered 18706, dated July 13, 1944.

STATEMENT

The facts of this case are contained in House Report No. 138, and are as follows:

"As is indicated in the report of the Post Office Department to this committee, the bill would authorize the payment of $100 to Mrs. M. M. Richwine on a postal money order which was issued on July 13, 1944. The money order in question was sent to Mrs. Richwine by her husband when he was serving overseas in the Pacific theater of operations during World War II. At that time, he would on occasions enclose money orders in his letters to his wife. The money order which is the subject of this legislation remained in one of the letters that Mrs. Richwine's husband sent her during the war. She kept these letters because of their personal significance to her and several years ago while reading them over, she discovered the uncashed money order. When she presented the money order to the Post Office Department, she found that the statutory period for the payment of the money order had expired by the time the money order itself had come to life. This point is raised in the departmental report and is taken by the Post Office Department as the reason for questioning relief in this instance.

"However, the committee feels that the strict application of the law in this particular case is unfair and results in a failure by the Government to meet the obligation of paying the amount of the money order purchased by Mrs. Richwine's husband while he was serving his country overseas."

The Post Office Department is opposed to the enactment of this legislation, and states it is prohibited by law from paying a money order after 20 years from the last day of the month of original issue. Also, that claims for unpaid money orders are forever barred unless received by the Department within that period (title 39, United States Code, sec. 5103(d)).

The committee, however, concurs with the House committee in that the strict application of the law in this particular case is unfair and because of the circumstances of the case, recommends favorable consideration of this legislation.

ACCESSIBILITY OF FEDERALLY FINANCED BUILDINGS TO THE PHYSICALLY HANDICAPPED

The Senate proceeded to consider the bill (S. 222) to insure that public buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped which had been reported from the Committee on Public Works, with amendments, on page 1, line 4, after the word "any", to insert "nonresidential"; in line 6, after the word "by", to insert "or on behalf of"; on page 2, line 1, after the word "Government", to strike out the comma and "or any department or agency thereof,"; in line 5, after the word "Government", to strike out the comma and "or any department or agency thereof,"; in line 11, after the word "Administrator", to insert "in consultation with the Secretary of Health, Education, and Welfare"; in line 15, after the word "be", to strike out "reasonably"; in line 16, after the word "to", to insert "and usable by"; after line 16, to strike out:

SEC. 3. (a) All contracts for the construction of public buildings entered into by or on behalf of the Federal Government, or any department or agency thereof shall contain express provisions requiring compliance with the regulations prescribed under section 2.

And, in lieu thereof, to insert:

SEC. 3. (a) Plans and specifications for the construction of public buildings by or on behalf of the Federal Government shall be drawn in compliance with the regulations prescribed under section 2, and shall be incorporated in the construction contract.

On page 3, line 4, after the word "Government", to strike out the comma and "or any department or agency thereof,"; and, after line 8, to insert a new section, as follows:

SEC. 4. The Administrator may grant modifications or waivers of the regulations prescribed under section 2 in specific cases where such regulations are clearly not necessary, upon request of the head of any department or agency of the Federal Government.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That as used in this Act—

(1) The term "public building" means any nonresidential building—

(A) constructed by or on behalf of the Federal Government after the date of enactment of this Act, or

(B) financed in whole or in part with funds provided by a grant or loan made by the Federal Government after the date of enactment of this Act,

if the use for which such building is intended will require that it be accessible to the public.

(2) The term "Administrator" means the Administrator of General Services.

SEC. 2. The Administrator in consultation with the Secretary of Health, Education, and Welfare is authorized to prescribe regulations establishing such standards for design and construction of public buildings as may be necessary to insure that all public buildings will be accessible to and usable by persons who are physically handicapped.

SEC. 3. (a) Plans and specifications for the construction of public buildings by or on behalf of the Federal Government shall be drawn in compliance with the regulations prescribed under section 2, and shall be incorporated in the construction contract.

(b) All grants or loans made by the Federal Government for the purpose of financing the construction of public buildings shall be made upon the condition that the design and construction of such buildings shall comply with the regulations prescribed under section 2.

SEC. 4. The Administrator may grant modifications or waivers of the regulations prescribed under section 2 in specific cases where such regulations are clearly not necessary, upon request of the head of any department or agency of the Federal Government.

Mr. BARTLETT. Mr. President, the Senate now has before it for consideration a bill which I introduced to eliminate the artificial restraints on one of our most overlooked minority groups—the physically handicapped. S. 222 insures that all nonresidential buildings constructed with Federal funds would have to be accessible to the physically handicapped, as determined and prescribed by the Administrator of General Services and the Secretary of Health, Education, and Welfare.

The Committee on Public Works has done an admirable job in conducting hearings and marking up and reporting out a fine bill. The changes they have made are minor and should be acceptable to everyone. Section 4, added by the committee, provides that—

The Administrator may grant modifications or waivers of the regulations prescribed under section 2 in specific cases where regulations are clearly not necessary, upon request of the head of any department or agency of the Federal Government.

It is my understanding that the committee had in mind "special-use" buildings only when it wrote this amendment, and that waivers would not be granted to any "general-use" building or to any building which could reasonably be expected to be used by the handicapped. Seen in this light, the addition of section 4 does not sacrifice the principal purposes of the bill and is acceptable to me, as the bill's author.

As I said in my testimony before the Subcommittee on Public Buildings and Grounds:

The physically handicapped are citizens of this country—just as others of us are; they pay taxes and contribute to the economy of the country—just as others of us do; and they deserve access to their public buildings on an equal basis with the rest of us. This is all they ask—and it is all I ask.

Without spending any appreciable sum of money and without any long and complex studies but with just a little bit of thought and consideration, we can take

steps to open up our public buildings and a more normal life to all the people.

I urge swift passage of S. 222; we have delayed longer than we should have.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 538), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE BILL

S. 222, as amended will—

1. Define the term "public building" as any nonresidential building constructed by or on behalf of the Federal Government or financed in whole or in part with funds provided by a grant or loan made by the Federal Government, the use of which will require that it be accessible to the public.

2. Authorize the Administrator of General Services, in consultation with the Secretary of Health, Education, and Welfare, to prescribe regulations establishing such standards for design and construction of public buildings as may be necessary to insure that they will be accessible to and usable by physically handicapped persons.

3. Require that the plans and specifications for the construction of public buildings by or on behalf of the Federal Government be drawn in compliance with the regulations issued by the Administrator, and further require that grants or loans made by the Federal Government for the purpose of financing the construction of public buildings be made upon the condition that the design and construction of such buildings shall comply with the regulations.

4. Authorize the Administrator of General Services to grant modifications or waivers of the regulations in specific cases where it can be clearly shown that such regulations are not necessary, upon the request of the head of any department or agency of the Federal Government.

THE NEED

The Federal Government for many years has been promoting the employment and rehabilitation of the physically handicapped. In pursuit of this goal the President has appointed a Committee on Employment of the Handicapped, and the Vocational Rehabilitation Act Amendments of 1965 established the National Commission on Architectural Barriers to Rehabilitation of the Handicapped within the Department of Health, Education, and Welfare. However, there is no statutory requirement that public buildings constructed with Federal funds be constructed in such a way that they are accessible to and usable by people who have physical impairments. It is of little use to find employment for an individual confined to a wheelchair if he cannot get up to, or through the door of, the building, or if he cannot get a drink of water or go to the toilet after he is inside the building.

While the General Services Administration has adopted a policy to plan and construct new Federal buildings under its jurisdiction in such a way that they are accessible to, and usable by, the physically handicapped, there is nothing to keep this policy from being changed by a new Administrator. Also, many agencies of the Federal Government, with authorization to construct buildings which will be used by the general public, or to make loans and grants for the construction of such buildings, have no requirement that these buildings be designed and constructed in such a manner that they will be accessible to and usable by the physically handicapped.

This legislation is necessary to insure that all public buildings constructed in the future by or on behalf of the Federal Government or with loans or grants from the Federal Government are designed and constructed in such a way that they will be accessible to and usable by the physically handicapped.

Such legislation is also needed to set an example which would, hopefully, be followed by State and local governments, as well as private industry in constructing buildings that must be used by the public.

HEARINGS

On July 17, 1967, the Subcommittee on Public Buildings and Grounds conducted hearings on this legislation, receiving testimony from Senator E. L. Bartlett, Alaska; Senator Ernest Gruening, Alaska; Senator Daniel K. Inouye, Hawaii; Congressman Charles E. Bennett, Florida; and Congressman James C. Cleveland, New Hampshire; officials of various departments, agencies, and boards of the Federal Government; and officials of numerous organizations representing the physically handicapped.

GENERAL STATEMENT

There are approximately 22 million people in the United States who, because of some form of physical handicap are restricted in their ability to move from place to place. It should be the concern of all that these people are afforded every opportunity to obtain gainful employment and otherwise enter into the mainstream of American life. The Federal government, in the past, has literally locked out millions of its citizens from the public buildings which it has constructed or otherwise financed by not requiring that these buildings be designed and constructed so that people with physical impairments could readily enter and use the facilities of such buildings. While this neglect or oversight was surely not intentional, nevertheless it denied the use of these buildings to many of the people whose tax dollars supported their construction.

The Federal Government has recognized for years the need to rehabilitate and employ as many of the physically handicapped as possible. These people constitute a tremendous asset of our country which is not being fully utilized. In furtherance of this effort, the President has appointed a Special Committee on Employment of the Handicapped, and there has been established under the provisions of the Vocational Rehabilitation Act of 1965 the National Commission on Architectural Barriers to Rehabilitation of the Handicapped within the Department of Health, Education, and Welfare to study and assist with this problem. Some States have already taken the lead in passing legislation to eliminate architectural barriers in State and local government buildings. While some agencies of the Federal Government, such as the General Services Administration, have policies to eliminate architectural barriers in the construction of new public buildings, many others have no such policy. The Congress should take action to pass legislation which would not only prevent the construction of public buildings by or on behalf of the Federal Government that are inaccessible to the physically handicapped, but would also set an example and guide to encourage State governments and private industry to construct buildings which will be used by the public in such a way that they are readily accessible to all people.

COMMITTEE VIEWS

It is the opinion of the committee that it is incumbent upon the Federal Government to insure that all public buildings constructed with Federal funds or constructed on behalf of the Federal Government be constructed in such a way that they are accessible to all people. If people who are physically handicapped are to rehabilitate themselves and seek gainful employment it is vitally necessary that they have access to and are able to use public buildings in which they must work or visit in carrying on a normal life.

It is the intent of the committee that the word "building" as used in this bill be given the broadest possible interpretation and include any structure which must be used by the general public, whether it be a small rest station at a public park or a multimillion-dollar Federal office building. The committee also wants it clearly understood that section 4 of this bill is not intended to be used as a loophole for indiscriminate modifications or waivers of the regulations but it intended to apply to those relatively few special purpose buildings which may not require access to the physically handicapped.

The committee, after carefully analyzing all facets of the problem believes that S. 222, as amended, provides the best possible solution to the elimination of architectural barriers in public buildings and urges its enactment.

COST

Enactment of this legislation will not result in any additional cost to the Federal Government.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT ON LOCATION AND PROJECTS FOR AIR NATIONAL GUARD

A letter from the Deputy Assistant Secretary of Defense (Properties and Installations), Department of Defense, reporting, pursuant to law, the location, nature, and estimated cost of certain facilities projects proposed to be undertaken for the Air National Guard; to the Committee on Armed Services.

REPORT ON LOCATION AND PROJECTS FOR THE ARMY NATIONAL GUARD

A letter from the Deputy Assistant Secretary of Defense (Properties and Installations), Department of Defense, reporting, pursuant to law, the location, nature, and estimated cost of certain facilities projects to be undertaken for the Army National Guard; to the Committee on Armed Services.

REPORT OF FEDERAL HOME LOAN BANK BOARD

A letter from the Chairman, Federal Home Loan Bank Board, Washington, D.C., transmitting, pursuant to law, a report of that Board for the year 1966 (with an accompanying report); to the Committee on Banking and Currency.

REPORT ON SURVEY OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT'S MANAGEMENT AND OPERATION OF COMMERCIAL IMPORT PROGRAM FOR VIETNAM

A letter from the Comptroller General of the United States, Washington, D.C., transmitting, pursuant to law, a report on a survey of the Agency for International Development's management and operation of the commercial import program for Vietnam, Department of State, Agency for International

Development, Department of Defense, dated August 1967 (with an accompanying report); to the Committee on Government Operations.

AMENDMENT OF ACT PROVIDING FOR THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF THE MICHAUD FLATS IRRIGATION PROJECT

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the act of August 31, 1954 (68 Stat. 1026), providing for the construction, maintenance, and operation of the Michaud Flats irrigation project (with an accompanying paper); to the Committee on Interior and Insular Affairs.

REPORT ON GRADED EMPLOYEES IN NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator, National Aeronautics and Space Administration, Washington, D.C., reporting, pursuant to law, on graded employees in that Administration, as of June 30, 1967; to the Committee on Post Office and Civil Service.

AMENDMENT OF ATOMIC ENERGY ACT OF 1954

A letter from the Chairman, U.S. Atomic Energy Commission, Washington, D.C., transmitting a draft of proposed legislation to amend the Atomic Energy Act of 1954, as amended, and for other purposes (with accompanying papers); to the Joint Committee on Atomic Energy.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the PRESIDENT pro tempore:

Two resolutions of the House of Representatives of the Commonwealth of Massachusetts; to the Committee on Commerce:

"RESOLUTIONS MEMORIALIZING CONGRESS TO LAUNCH AN INVESTIGATION OF THE SERIOUS PROBLEM OF HARMFUL NOISE FROM THE OPERATION OF JET AIRCRAFT AT THE GEN. EDWARD LAWRENCE LOGAN INTERNATIONAL AIRPORT

"Whereas, The health and safety of the residents of the Greater Metropolitan Boston Area are being seriously menaced by the harmful and nerve-shattering noise caused by the increased schedule of flights of bigger and more powerful jet aircraft at the General Edward Lawrence Logan International Airport; and

"Whereas, No serious study has been made of the possible adverse effects of the incessant and unbearable noise and vibration upon the health and well-being of thousands of citizens living in a neighborhood which was in existence many years before the construction and expansion of the Airport; and

"Whereas, Such a study and investigation would benefit not only the people of Massachusetts but people of the United States living in metropolitan areas and similarly affected; therefore be it

"Resolved, That the Massachusetts House of Representatives respectfully request the Congress of the United States to launch an immediate investigation and study into the acute problem of unreasonable and harmful noise and vibration cause by jet aircraft at the General Edward Lawrence Logan International Airport and elsewhere in the country, the feasibility of installing sound barriers at hangars and other installations and of requiring the manufacturers to install mufflers or other noise reducing devices on jet aircraft for the purpose of eliminating such noise and vibration in order to eradicate what has become a most serious hazard in almost every large metropolitan area; and be it further

"Resolved, That copies of these resolutions be sent forthwith by the Secretary of the Commonwealth to the presiding officer of each branch of Congress and to each member thereof from this Commonwealth."

"RESOLUTIONS MEMORIALIZING CONGRESS TO REQUEST THE CIVIL AERONAUTICS BOARD AND THE FEDERAL AVIATION AGENCY TO MAKE AN INVESTIGATION RELATIVE TO THE PROBLEM OF EVER INCREASING NOISE OF LOW FLYING AIRCRAFT IN THE CITY OF BOSTON

"Whereas, The volume of traffic at the Logan International Airport is steadily increasing and all indications point to an ever-expanding volume; and

"Whereas, The noise of numerous low flying aircraft arriving at and departing from said airport is alarmingly disturbing the peace and quiet of the neighborhood and of the city of Boston to which they are entitled to and subjecting the citizens of said city to undue and unreasonable hardship; therefore be it

"Resolved, That the Massachusetts House of Representatives respectfully urges the Congress of the United States to request the Civil Aeronautics Board and the Federal Aviation Agency to make an investigation of the problem of ever increasing noise of low flying aircraft in the city of Boston with a view toward eliminating or reducing said noise; and be it further

"Resolved, That copies of these resolutions be sent forthwith by the Secretary of the Commonwealth to the presiding officer of each branch of Congress and to each member thereof from this Commonwealth."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MORSE, from the Committee on Labor and Public Welfare, without amendment:

H.R. 11945. An act to amend the college work-study program with respect to institutional matching and permissible hours of work (Rept. No. 539); considered, by unanimous consent, and passed.

(See reference to the above bill when reported by Mr. MORSE, which appears under a separate heading.)

By Mr. AIKEN, from the Committee on Agriculture and Forestry, with amendments:

S. 1504. A bill to amend the Consolidated Farmers Home Administration Act of 1961, as amended, to provide for loans to supplement farm income, authorize loans and grants for community centers, remove the annual ceiling on insured loans, increase the amount of unsold insured loans that may be made out of the fund, raise the aggregate annual limits on grants, establish a flexible loan interest rate, and for other purposes (Rept. No. 540).

By Mr. SPARKMAN, from the Committee on Banking and Currency, with an amendment:

S.J. Res. 93. Joint resolution to provide for the issuance of a gold medal to the widow of the late Walt Disney and for the issuance of bronze medals to the California Institute of the Arts in recognition of the distinguished public service and the outstanding contributions of Walt Disney to the United States and to the world (Rept. No. 541).

JOINT SUPPLEMENTAL VIEWS ON REPORT RELATING TO ELECTION REFORM ACT OF 1967

Mr. CLARK. Mr. President, on behalf of myself and the distinguished junior Senator from Pennsylvania [Mr. SCOTT], I submit joint supplemental views to accompany S. 1880, the Election Reform Act of 1967. I ask unanimous consent that they be printed as part 2 of the report by the Committee on Rules and Administration thereon—Senate Report No. 515.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. FONG:

S. 2347. A bill for the relief of Renato Geliza Ramil; to the Committee on the Judiciary.

By Mr. McGOVERN (for himself, Mr. MUNDT, and Mr. YOUNG of North Dakota):

S. 2348. A bill to provide for a Great Prairie Lakes Parkway in the States of South Dakota and North Dakota; to the Committee on Public Works.

(See the remarks of Mr. McGOVERN when he introduced the above bill, which appear under a separate heading.)

By Mr. TYDINGS (for himself and Mr. HAYDEN):

S. 2349. A bill to provide for the appointment of additional circuit judges; to the Committee on the Judiciary.

(See the remarks of Mr. TYDINGS when he introduced the above bill, which appear under a separate heading.)

GREAT PRAIRIE LAKES PARKWAY

Mr. McGOVERN. Mr. President, I introduce, for myself and for my senior colleague [Mr. MUNDT], and the Senator from North Dakota [Mr. YOUNG], a bill to authorize construction of the Great Prairie Lakes Parkway along the Missouri River reservoirs in North and South Dakota.

The purpose of the measure is to provide access to the many recreational sites, scenic areas, and areas of great historical interest that can be found along the Missouri, through Federal assistance to the States in construction of a perimeter road system. Funds would be advanced by the Secretary of Transportation after he approves, with the advice of the Secretary of the Interior, a construction plan submitted by North and South Dakota. The new parkway, constructed along both sides of the river, would not be a commercial highway, but would be expressly designed for recreational travel.

Mr. President, as a result of construction of five main stem dams under the Flood Control Acts of 1944 and 1946, the entire stretch of the Missouri River, from the North Dakota-Montana border down through the center of South Dakota and east to the southeast corner of the State, has been transformed into America's largest chain of inland lakes. In combination, I believe these clear, blue bodies of water comprise one of our greatest opportunities to improve and enjoy the quality of our environment.

During the westward expansion of the United States the river itself was a major avenue of transportation. Consequently the region abounds in historic sites. There are fur trading posts, forts, replicas, museums, and numerous other genuine reminders from the exciting frontier era.

The Lewis and Clark Expedition of more than 160 years ago is but one of many parts of the Missouri's rich heritage, and it exemplifies the kind of understanding of our past that could be stimulated and enjoyed through construction of a perimeter road system. The Lewis and Clark Trail Commission established by the 88th Congress has already made significant progress toward

public awareness and recognition of the assets along that famous route. My bill provides expressly for cooperation with its recommendations.

With smooth, rolling hills, graceful prairie lands, tree lined valleys and sparkling waters, the "Great Prairie Lakes Parkway" would be a majestic scenic drive. A carefully planned route as called for in this legislation could include virtually every visual attribute to be found in the Great Plains.

The parkway would also provide and promote development of new access routes to the lakes themselves, which make up the Nation's newest center for literally every water sport: swimming, power cruising, skin diving, excursion boat trips, races, regattas, and fishing to mention just a few. Dock facilities are ample, beaches are wide, and valuable areas have already been set aside for restful relaxation.

Existing values are, in my view, reason enough to justify Federal assistance in construction of the parkway, but there is also promise of much more. The perimeter road would pave the way for many future developments by both public and private parties, which are being held in abeyance now only because of the need for access.

Mr. President, beyond its benefits to the Dakotas, I am convinced that the parkway we propose would fulfill a pressing national need. A combination of longer vacations, increased affluence, greater mobility and population growth are already straining our outdoor recreation facilities, yet these same factors are expected to bring about a threefold increase in these activities in the short span before the end of this century. Visits to my State will be made by more than 9 million people a year.

Moreover, driving for pleasure tops the list of our leisure preferences, accounting for some 42 percent of all outdoor recreation. Scenic routes such as the one proposed here are thus of great inherent importance—for driving alone—in addition to their value in providing access to other opportunities.

On March 1 of this year, then acting Commerce Secretary Trowbridge released a proposed national program of scenic roads and parkways prepared for the President's Council on Recreation and Natural Beauty. The report declares that—

> Such a program . . . will result in many benefits to national defense, safety, health, conservation, and the economic well-being of the Nation. The magnitude of these benefits suggests that public investments in such a program will pay rich dividends.

I heartily concur with that conclusion. Significantly, a Missouri River perimeter route in North and South Dakota is included in the report, and we have drafted this legislation to conform to the standards recommended by the Council.

State and local officials in North and South Dakota have already declared their interest in early development of a Missouri River scenic road and, along with many private groups and individuals, are looking forward to realizing the new opportunities it will provide for recreational development. I am most hopeful that our bill will receive favorable consideration by the 90th Congress, as a highly appropriate beginning on a national program of scenic, historic, and recreational roads.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 2348) to provide for a Great Prairie Lakes Parkway in the States of South Dakota and North Dakota, introduced by Mr. McGOVERN (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Public Works.

APPOINTMENT OF ADDITIONAL CIRCUIT JUDGES

Mr. TYDINGS. Mr. President, I introduce today, for myself and the senior Senator from Arizona [Mr. HAYDEN], a bill for the appointment of additional judges to several of the U.S. courts of appeals. The measure will add one additional circuit judge in each of the third and 10th circuits, four additional judges in the ninth circuit, and two additional judges in the fifth circuit. In addition, the bill will make permanent the four temporary judgeships created in the fifth circuit by the Omnibus Judgeship Act of 1966.

This measure embodies the recommendations of the Judicial Conference of the United States, which, at its March 1967 meeting, approved reports from its Committees on Judicial Statistics and Court Administration emphasizing the need for the additional judicial manpower. The report of the Committee on Judicial Statistics is particularly valuable, for it was prepared in conjunction with a survey of the U.S. court of appeals conducted by Will Shafroth, former Deputy Director of the Administrative Office of the U.S. Courts. The report and Mr. Shafroth's survey document the rapid expansion of judicial business before the courts of appeals, and point out that steps must be taken now to deal with this problem if we are to preserve the capacity of the Federal appellate courts to deal effectively with the business before them.

Mr. President, I ask unanimous consent that the March 1967 report of the Judicial Conference's Committee on Judicial Statistics, together with Mr. Shafroth's survey, and the text of the bill to create additional court of appeals judgeships, be printed at this point in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill, report, and survey will be printed in the RECORD.

The bill (S. 2349) to provide for the appointment of additional circuit judges, introduced by Mr. TYDINGS (for himself and Mr. HAYDEN), was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 2349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall appoint, by and with the advice and consent of the Senate, one additional circuit judge for the third circuit, two additional circuit judges for the fifth circuit, four additional circuit judges for the ninth circuit, and one additional circuit judge for the tenth circuit.

SEC. 2. Section 1(c) of the Act of March 18, 1966, 80 Stat. 75, pertaining to the appointment of four additional circuit judges for the fifth circuit is hereby amended in part by deleting the final sentence, providing, "The first four vacancies occurring in the office of circuit judge in said circuit shall not be filled." These judgeships are hereby made permanent and the present incumbents of such judgeships shall henceforth hold their offices under section 44 of title 28, United States Code, as amended by this Act.

SEC. 3. In order that the table contained in section 44(a) of title 28 of the United States Code will reflect the changes made by sections 1 and 2 in the number of circuit judges for said circuits, such table is amended to read as follows with respect to said circuits:

"Circuits	Number of judges
* * * * *	
Third	Nine.
* * * * *	
Fifth	Fifteen.
* * * * *	
Ninth	Thirteen.
Tenth	Seven."

The report and survey, presented by Mr. TYDINGS, are as follows:

SUMMARY OF REPORT OF THE COMMITTEE ON JUDICIAL STATISTICS

I. JUDGESHIPS FOR THE COURTS OF APPEALS

The Committee recommends (a) the creation of one additional circuit judgeship for the Third Circuit; (b) making the four temporary judgeships previously created for the Fifth Circuit permanent, and creating two additional permanent judgeships; (c) creating four additional permanent judgeships for the Ninth Circuit; and (d) creating one additional permanent judgeship for the Tenth Circuit.

II. JUDGESHIPS FOR THE DISTRICT COURTS

The Committee does not recommend the creation of any additional district judgeships at the present time beyond those approved by the Conference in 1965 but feels that any further district-judgeship action should await the making of an over-all survey which the Committee intends to commence in 1968.

REPORT OF THE COMMITTEE ON JUDICIAL STATISTICS

To the Chief Justice, Chairman, and the Members of the Judicial Conference of the United States:

A meeting of the Committee was held on February 2 and 3, 1967, at Washington, D.C., with attendance by all members except Judge Edwin A. Robson, who was ill, and with the presence also of Warren Olney III, Director of the Administrative Office; William E. Foley, Deputy Director; Joseph F. Spaniol, Jr., Chief of the Division of Procedural Studies and Statistics; and James A. McCafferty of that Division; and of Will Shafroth, Former Deputy Director, as Consultant on a special survey which had been made by him of the Courts of Appeals for all the Circuits.

I. THE COURTS OF APPEALS

(a) *In general*

Most of the time at the two-day meeting was given over to a review and analysis of the judgeship situation and needs of the Courts of Appeals, in both their system and their circuit aspects. The Conference at its September 1965 session had authorized and directed the Committee on Judicial Statistics and the Committee on Court Administration "to undertake a comprehensive study of the workload of the United States courts of appeals in light of the additional district judgeship positions created in 1961 and the proposals for additional district judgeships presently recommended [these judgeships were

subsequently created by the Omnibus Judgeship Act of 1966] and on the basis of its study and evaluation, to recommend to the Conference any additional judgeships which are required". (Conf. Rept. p. 47)

The Committees, in the responsibility thus imposed upon them, deemed it desirable to obtain information as to the variances in practice among the eleven courts in the handling of their administrative and judicial loads, for purposes of the indication which this might contain of the comparative methods used to make their operations efficient and of the relationship which this could properly have to their realistic need for additional judgepower. Will Shafroth, former Deputy Director of the Administrative Office, and precedingly for many years Chief of the Division of Procedural Studies and Statistics, graciously undertook the task of making a field survey of all the Courts of Appeals for this purpose, and a copy of his excellent and penetrative report has been distributed to the members of the Conference in connection with this report of the Committee.

In its approach to and its conclusions on appellate-judgeship needs, the Statistics Committee has given due consideration to Mr. Shafroth's comprehensive survey and his experienced analysis; to the other general statistical data as regularly compiled by the Administratice Office; and to the evaluative opinions of the individual members of the Committee.

The situation in general as to the Courts of Appeals is that, from 1960 on, a marked and progressive increase has been occurring in filings (see graphs following pp. 10 and 23 of the Shafroth survey), and, of more significant import, the number of cases pending or the backlog at the end of each fiscal year has percentagewise been mounting even more substantially. Thus, as pointed out in the most recent report of the Director, the number of appeals has in the last five years increased almost 70 percent. Counterpartly, however, while the number of terminations per judgeship has also materially risen during the period from fiscal 1960 to fiscal 1966 (55 per judgeship in 1960; 76 per judgeship in 1966) there has been no time from fiscal 1960 on when the number of terminations has succeeded in keeping pace with the number of filings.

The result is that the number of pending cases has risen from a backlog of 2,220 in 1960 to one of 5,387 in 1966, or an increase of 140 percent. And on December 31, 1966, the end of the first half of fiscal 1967, this backlog had further risen to an all-time high of 5,714, with the virtual certainty of a still further substantial addition by June 30, 1967, the end of the present fiscal year.

To emphasize the situation in another manner—while the number of docketings per judgeship was 44 in fiscal 1950, in fiscal 1960 it was 57, and in fiscal 1966 it was 84. Again, while the number of cases pending or the backlog at the end of the fiscal year was 26 per judgeship in 1950, in 1960 it was 32, and in 1966 it was 69. Thus the 78 judgeships as functionally existing for fiscal 1966 were left with a backlog of what alone would represent, on the basis of the termination rate for that year, almost a whole year's work. But any attempt to measure the accumulation problem on such a time basis is, of course, without reality so long as each year's filings continue to progressively enlarge the backlog, as they have been doing ever since fiscal 1960 (e.g. the 1,773 addition to backlog in fiscal 1966, and the several-hundred addition which has already occurred in the first half of fiscal 1967).

Normally, of course, the 10 additional circuit judgeships created by the Omnibus Act of 1966 (making the total 88) could be expected to increase the general terminations in 1967 over those made in 1966 by approximately 13 percent. The fact, however, is that in four of the five circuits where judgeships were added by the 1966 Act, the terminations made in fiscal 1966 had been effected only through the use of outside judgepower (primarily district judges, together with some senior judges, and also some active circuit judges from other circuits) in an amount equal to or approaching the circuit judgepower which they received under the 1966 Act. (For example, in the Fifth Circuit there had been a use of such outside judgepower to the extent of 36 percent of the court's hearing load, which was more than the circuit judgepower given it by the 1966 Act. Thus, while the effect of the 1966 Act should be to increase the number of terminations in 1967 somewhat over those of 1966, the 10 judgeships created are not likely to give rise to any substantial increase in total terminations over the 1966 figure if they become merely supercessive of the outside judgepower which was used in 1966.

In any event, unless resort to a substantial use of district judgepower is continued, the 10 circuit judgeships of the 1966 Act will not be able to keep the general backlog from materially mounting. To illustrate—even if these 10 judgeships had been operative and contributive in fiscal 1966, along with the outside judgepower which was being employed, they would, on the basis of the terminations which occurred per judgeship in that year, have effected a disposition of some 760 more cases, which would still have left an addition to the pending backlog of 1,000 cases for that year.

(b) *Additional circuit judgeships recommended*

On its attempted general and full consideration, the Committee believes that there is a current sound need for, and recommends that the Conference approve, the following additional circuit judgeships:

1. *Third Circuit:* That one permanent judgeship be added to the Court of Appeals for the Third Circuit, so as to make the number of judges for that Court nine. Such action has also been requested by the Judicial Council of the Circuit.

2. *Fifth Circuit:* That the four temporary judgeships created for the Court of Appeals for the Fifth Circuit by the 1966 Act be made permanent and that there be added thereto two more permanent judgeships, so as to make the number of judges for that Court fifteen. Such action has also been requested by the Judicial Council of the Circuit.

3. *Ninth Circuit:* That four permanent judgeships be added to the Court of Appeals for the Ninth Circuit so as to make the number of judges for that Court thirteen. Such action has also been requested by the Judicial Council of the Circuit.

4. *Tenth Circuit:* That one permanent judgeship be added to the Court of Appeals for the Tenth Circuit so as to make the number of judges for that Court seven. Such action has also been requested by the Judicial Council of the Circuit.

(c) *Considerations underlying the recommendations*

Statistical data relating to each of the foregoing Circuit are set out in the Shafroth survey, pages 29–35, and will not here be repeated, except in emphasis of some particular aspect. The Committee has engaged in its own evaluative judgment as to each situation on all the elements to which reference has been made above. Also, while it has had due regard for the recommendations of the Judicial Councils, it has not permitted its actions to be induced or swayed on this basis.

As to the Third Circuit, it should be observed that on the general statistics this Court could be regarded as in no greater need of an additional judgeship than some other Circuits for which none is being recommended. Its caseload per judgeship is less than the national average (60 as against 74), but its backlog has been increasing (144 cases in 1960; 372 cases in 1966 despite the judgeship given it by the 1961 Act), and a congestion, though not yet alarming, would seem to be commencing progressively to develop. Also, with the district judgeships added in the Circuit by the 1966 Act, as well as on other factors, an increase in the number of appeals should occur. Thus, with some seeming portent, the number of appeals filed during the first half of fiscal 1967 has been 29 percent greater than those filed during the corresponding period of fiscal 1966. Furthermore, the Court has used outside judgepower (district, senior and foreign circuit judges) to carry 20 percent of its hearing load in fiscal 1966, which in equivalence is more than the one judgeship which the Committee is recommending.

As to the Fifth Circuit, the filings have progressively increased from 577 in fiscal 1960 to 1,041 in fiscal 1966 (and with 546 for the first half of fiscal 1967), while the pending cases or backlog has mounted from 279 in 1960 to 1,004 in 1966. It is obvious that the 4 temporary judgeships created by the 1966 Act are necessary as a part of the permanent structure of the Court. The Committee is further convinced that there is a sound need to add at the same time at least two more permanent judgeships to the Court. The Court has done a splendid job in marshalling and utilizing outside help through the past three years, but this outside help can hardly be expected to be repeatingly obtainable or even to be judicially available. Thus, in fiscal 1966, 36 percent of the Court's hearing load was carried by outside help. This is more than the 4 new judgeships created by the 1966 Act will be able to take care of in fiscal 1967 or thereafter. In fact it amounts to assistance mathematically exceeding that of 5 circuit judgeships. And it should be borne in mind that even with help amounting to more than 5 such judgeships, the Court has not been able to keep its terminations up to the volume of its filings, so that it seems manifest that 13 permanent judgeships will not enable it to keep up with its filings, to say nothing of making some progress toward reduction of its backlog. Fifteen judgeships, with the addition of such auxiliary help as it can perhaps get from senior judges of the Court, and possibly from some district judges of the Circuit, should make it possible for the Court to get at least a start on its uphill climb, although it is faced with the factor, among others, as to further volume of business that the 1966 Act created 14 additional district judgeships for the Circuit, the appellate impact of whose functioning should commence to be felt during fiscal 1967.

As to the Ninth Circuit, this Court has had no increase in judgeships since 1954, but it has been resorting for a number of years to the use of substantial outside judgepower to help carry its hearing load. The amount of this judgepower during the past two years has been between 19 and 20 percent of the Court's hearing load. In other words, in carrying on its hearing work it has already been using judgepower equal to between 11 and 12 judgeships. Its filings have increased from around 450 in 1960 to around 800 in 1966, and at the same time its volume of pending cases or backlog has mounted from 399 to 807, or doubled. On a statistician's trend line, based on the filings from 1960 to 1966, as discussed in the Shafroth survey, the Court can be expected to have a filing load by 1970 corresponding to that of the Fifth Circuit for the past fiscal year. The enormous growth of this geographical area, industrially as well as generally, which need not be analyzed here, could cause that level to be reached even sooner. In any event, there ought not to be permitted to occur such a situation as unforseeingly developed in the Fifth Circuit, and four additional judgeships should in the Committee's judgment be created as a matter of sound operational and protective need.

As to the Tenth Circuit, which presently

has six judgeships, more than 10 percent of the hearing load of that Circuit has since 1961 been carried by outside judgepower (here primarily senior circuit judges). While the Court, as pointed out in the Shafroth survey (p. 34), has added to its hearing load a large number of prisoner-attack cases which in most other circuits would have been screened through the Miscellaneous Record instead of being placed on the regular docket, even with deduction made of a majority of these cases, the filings per judgeship are substantially more than the national average. And as the Court's records presently stand, while its terminations after hearing and submission have increased from 179 in 1960 to 359 in 1966, its pending cases or backlog has during that same period mounted from 135 to 400 in number.

Also, it would appear that its filings will continue to increase—they have progressively risen from 229 in 1960 to 543 in 1966 (although the latter figure includes 161 prisoner cases, of which, as commented above, it would seem that a substantial percentage could have been handled on the Miscellaneous Record and not docketed). On its evaluation of the situation, with account taken of all the factors involved, the Committee is of the view that a seventh judgeship should be created for this Circuit.

(*d*) *Consideration given the other circuits*

The Committee went over the situation of all the other Circuits, and while there are aspects which portend some probable difficulties as to some of them not too far ahead, it determined that it should not at this time make recommendation for additional judgeships as to any of them.

The Fourth and Sixth Circuits each requested two additional judgeships at the time of the Conference's consideration in relation to the last Omnibus Act and received such judgeships. The Seventh Circuit similarly requested, had approved, and obtained one additional judgeship under the Act. The District of Columbia Circuit and the Second Circuit did not request, nor did the Committee make any recommendation of additional judgeships for them in relation to the last Omnibus Act. There exists in both of these Courts a substantial number of pending cases or backlog which has been progressively increasing, but each of them is commendably resorting to expedients which they feel will enable them to cope with their backlogs. Furthermore, their experimentations may provide some administrative light and precedent as considerations for the other Circuits.

As noted in the Shafroth survey, the one "pro se" or staff law clerk which was recently provided by Congress for each Circuit should enable the Courts to save some judicial time in the screening of prisoner petitions and cases. The Committee is of the view that a further such staff law clerk (and in some Circuits perhaps a third) would enable the Courts to increase their terminations through a screening of other cases, such as the criminal appeals, many of which are apparently without substance, but which, as could naturally be expected, have shown a marked increase since the Criminal Justice Act, as referred to in the Shafroth survey at p. 49. These are matters, however, which are outside the province of the Committee on Statistics, and hence only this passing comment is made.

II. JUDGESHIPS FOR THE DISTRICT COURTS

(*a*) *Additional judgeships*

At the time of its recommendations for judgeships in 1965, which became a part of the 1966 Act, the Committee, in line with the expressions which had been made in the Conference, was attempting to break the precedent which Congress appeared to have established in relation to Omnibus Judgeship Bills, of not acting on judgeship requests or other needs oftener than approximately every seven years. This practice did not enable the Courts to obtain judgepower in accordance with their sound needs, since at the end of such a lengthy period the number of requests made had necessarily become sizable in their total, although many of the requests as they had cumulatively been given approval had become inadequate and unrealistic at the time that the Omnibus Bill in which they were included was ultimately acted upon.

In hoping to get Congress to take current action on the recommendations which it made in 1965, the Committee was seeking to get the door opened for making request and obtaining action from Congress on judgeship requests approximately every four instead of every seven years. Because of the large number of accumulated and congressionally added district judgeships which were created by the 1961 Act, the Committee felt that, as a basis for seeking a more frequent consideration of judgeship requests than every seven years, its 1965 recommendations should be predicated on absolute demonstrable present need, with elimination of such situations as were marginal or would involve a measure of projection, even though there could be no doubt as to an ultimate future need. Although its recommendations were arrived at on this basis, the Committee had, however, made a canvass of the condition of all the districts in appraising the various marginal situations and came to the conclusion that the districts as to which it made no recommendation were not faced with an emergency situation and should be able to carry on until the Committee's next over-all survey was made, with resort to a temporary call for outside district-judge help if any distress situation arose.

On these considerations and in furtherance of the purpose of the policy referred to, the Committee concluded that, except as some request received by it could be said to represent a present emergency situation, it should not make any recommendation for judgeships at the present time beyond those of the last Omnibus Act.

The Committee gave consideration on this basis to the requests received by it for recommendations of additional judgeships, which requests were as follows:

Southern District of California, one judgeship.

Southern District of Georgia, one judgeship.

Eastern District of Kentucky, one judgeship.

Eastern District of Michigan, one judgeship.

Northern District of New York, one judgeship.

Western District of North Carolina, one judgeship.

Western District of Pennsylvania, two judgeships.

As to the Southern District of Georgia, the Committee had made recommendation of one additional judgeship in its 1965 report, which was approved by the Conference and which was included in the Omnibus Bill, but which was removed from the Bill by the Congress. As to the other present requests above set out, the Committee is of the opinion that there has been no such change in condition as to amount to an emergency situation and to call for action upon that basis. Accordingly, as previously indicated, the Committee makes no recommendation for any additional district judgeships at the present time. In this connection it may be added that it is the Committee's intention to commence another general district-court survey in 1968, so that such actual need as may be found to soundly exist at that time can be pointed out to the Conference in time for an Omnibus Judgeship Bill to be introduced at the opening session of the new Congress in 1969.

(*b*) *Situation as to the temporary judgeships created for the Eastern District of Pennsylvania by the 1966 Omnibus Act*

Of the three temporary judgeships created for the Eastern District of Pennsylvania by the 1966 Omnibus Act, one has since expired or will soon expire, without any appointment ever having been made thereto, as a result of the recent elevation of Judge Van Dusen from the District Court of that District to the Court of Appeals for the Third Circuit. The Committee was advised that an attempt will probably be made by one of the Senators or Congressmen from Pennsylvania to have this judgeship position restored or reconstituted, which the Committee feels ought to be done. In view of the Conference's previous approval of the position and of the fact that it has lapsed without the District ever having had the benefit thereof, no further action would seem to be necessary on the part of the Conference, unless Chief Judge Staley of the Circuit and Chief Judge Clary of the District have some special reason for desiring the Conference to voice re-expression of its previous approval. The Committee is of the opinion that the matter can perhaps most effectively be handled by a special bill, as has been suggested, in view of the unique situation involved, so that it does not become the subject simply of general inclusion in any omnibus bill which may be requested of the Congress.

III. COMMENTS ON THE SHAFROTH SURVEY

The Shafroth survey contains various aspects other than those which have been referred to herein, some within the province of the Statistics Committee and some within the province of other Committees, particularly the Committee on Court Administration and the Committee on Supporting Personnel. Some of those within the province of the Statistics Committee, which there has been no opportunity to consider and deal with in this report, will perhaps be made the subject of special comment in the Committee's next report. As to the aspects within the province of the two other Committees, mention is merely made here of the fact so that they can be gone over by the Chairmen of these Committees, if they so see fit.

IV. JS–10 REPORT

At the last session of the Conference, the Committee was directed to give consideration to the possibility of revising Form JS–10, covering the matter of trial time in the District Courts. There was not time at the two-day meeting of the Committee to fully explore all the aspects of this question and the problems involved. The Committee therefore was obliged to continue its consideration until the next session, and report to the Conference can accordingly not be made until the September 1967 session thereof.

Respectfully submitted.

JOHN BIGGS, JR.,
RICHARD H. CHAMBERS,
G. HARROLD CARSWELL,
LEONARD P. WALSH,
HARRY C. WESTOVER,
HARVEY M. JOHNSEN,
Chairman.

SURVEY OF THE U.S. COURTS OF APPEALS

(A report by Will Shafroth, consultant, Administrative Office of the U.S. Courts, Jan. 22, 1967)

[Charts and graphs referred to not printed in RECORD]

Part I

At the request of Honorable Warren Olney III, Director of the Administrative Office of the United States Courts, under the direction of the Statistics Committee of the Judicial Conference of the United States, and of the Chairman of the Committee, Judge Harvey M. Johnsen, I have completed a survey of the courts of appeals and herewith submit

my report. I have visited all the courts, talked with all of the Chief Judges but one (Judge Vogel was not available at the time I had planned for visiting the Eighth Circuit), with all of the clerks, and, in conference or singly, with about 50 associate judges of the courts. I found everywhere a very active interest in the subject of the survey and wish to express my genuine thanks to all of those judges with whom I discussed the work of their courts and the general subject of court administration for their courtesy and their willingness to give me their time and attention. I am also grateful to the clerks, who in spite of the pressure of their work—and most of them are hard-pressed—gave me full access to their records, the help of their staffs and a great deal of their valuable time. Most of all, I appreciate the generosity of the Chief Judges who have heavy burdens to carry but who talked with me at length and gave me many worthwhile ideas and suggestions. My twenty-five years of experience in the Administrative Office of the United States Courts had given me a vivid appreciation of the high quality of the federal judiciary and now that I have retired from that office, I hope I can say, without being accused of flattery, that the hard-working, conscientious and thoughtful judges with whom I have talked in the course of my survey fully justify the high esteem in which the federal judiciary is held.

Introduction

The scheme of this report is to first discuss the courts of appeals as a group, the condition of their judicial business and their needs for help. This is followed by a short summary for certain circuits. After this, I have undertaken to canvass the general subject of what can be done to increase the production of the courts by other means than an increase in the number of judges, and also, as a corollary, the possibility of decreasing the number of cases coming to the appellate courts by limiting their jurisdiction. Following this, I have discussed such topics as the need for more law clerks, the desirability of a survey of the clerk's offices, the handling of prisoner applications, the time taken away from hearing and deciding cases by outside activities and a number of suggestions arising out of the way things are now being handled in individual courts. This is followed by a few general recommendations. Others are scattered through the report. Part II of the report, which is in the nature of an appendix, gives a separate report on each circuit which is intended to give in more detail the statistics of each court, the factors bearing on its need, if any, for more judicial help and a brief account of its method of doing business.

A word about the statistics

Judges are notably allergic to statistics. Nevertheless, they have been the basis on which the need for judges and personnel for the courts has been assessed by Congress for a great many years and are the necessary tools of judicial administration. Six tables have been prepared for each circuit and are annexed to the individual reports in Part II. A compilation of the circuit tables has been prepared showing the totals for all circuits and these tables are attached to Part I.

The tables are as follows:

S–1. The flow of cases. Cases filed, terminated and pending and terminated after hearing or submission, 1950–1966.

S–2. Cases per judgeship and median time from filing to disposition, giving a comparison of national and circuit figures.

S–3. Types of cases filed—same years.

S–4. Types of cases filed per judgeship. Circuit figures and national figures compared in the tables for the individual circuits.

S–5. Prisoner petitions in the district courts and prisoner appeals in the courts of appeals. A comparison of circuit totals and six year trends from 1960 to 1966 with national totals and trends.

S–6. Trials in the districts courts and appeals from the district courts to the courts of appeals 1961–1966.

Three notations must be added at this point:

1. Years referred to are fiscal years unless otherwise stated.

2. Cases listed as filed or terminated in this report do not coincide with the numbers reported as filed and terminated in the Annual Reports of the Administrative Office for the year 1962 and subsequent years for the reason that, beginning in that year, consolidated cases and cross appeals have been separately docketed even though requiring only a single decision, in accordance with the directions of the Statistics Committee (Table B–1 of the Annual Reports of the Administrative Office). Therefore, it has been necessary to subtract from cases filed and cases terminated the number of cases listed in the B–1 table of the Annual Report of the Administrative Office under the heading: "Cases disposed of by consolidation". This includes cross appeals. It applies only to 1962 and subsequent years. The purpose of this was to make the figures for 1962 and subsequent years comparable to the figures for previous years.

In 1966 cases disposed of by consolidation including separately docketed cross appeals, were 635 or almost 10 percent of the number filed.

3. In reading the tables giving the caseload per judgeship, it is important to know to which fiscal year an increase in the number of judgeships should be applied. Three omnibus judgeship bills were passed during the period from 1950 through 1966, to wit, the bill of February 10, 1954, creating three circuit judgeships; the bill of May 19, 1961, creating 10 circuit judgeships; and the bill of March 18, 1966, creating another 10 positions, four of which were temporary. Since these judgeships were created in the second half of the fiscal year, it has been customary to first count them in the fiscal year following the year of passage of the bill.

Previous studies

Since the creation of the Administrative Office of the United States Courts in 1939 and the establishment of a new system of statistical tables for the federal courts, there have been numerous studies of the business of the United States courts of appeals. However, these have been mainly focused on the courts where additional judgeships were needed. A Committee of the Judicial Conference on Judicial Statistics was appointed by Chief Justice Hughes in 1943 and its first Chairman was Judge Learned Hand.

He was succeeded in 1944 by Judge Charles E. Clark of the Court of Appeals for the Second Circuit, who served for 15 years and was, in turn, succeeded in 1959 by Judge Harvey Johnsen of the Court of Appeals of the Eighth Circuit, the present chairman. Throughout the existence of this Committee, and with the aid of the Division of Procedural Studies and Statistics, there has been a continuous study of the condition of the courts, both district and circuit, and in each annual report of the Office, there has been a detailed report and tables showing the condition of these courts.

With the omnibus judgeship bill of 1949, detailed reports were presented to the House and Senate Judiciary Committees concerning the condition of the District of Columbia, Third, Seventh and Tenth Circuits and six circuit judgeships were created that year, three in the District and one in each of the other three circuits. Again in 1954 three judgeships were recommended by the Conference for the courts of appeals and two positions were created in the Ninth Circuit and one in the Fifth and the business of each of those courts was described in detail. In 1961, when 63 district judges were created by Congress, it was realized that substantial help must be given to the courts of appeals and ten new circuit judgeships were provided, after a full consideration of their business.

Five years later, on March 18, 1966, another judgeship bill was passed after a realization by the Judicial Conference that the courts were still unable to cope with the increasing litigation. This provided for 35 district judgeships and ten circuit judges and full reports were made in connection with it. The following table shows the increases since 1941, in the number of circuit judgeships:

INCREASE IN THE NUMBER OF JUDGESHIPS, 1941 TO 1966, INCLUSIVE

Circuits	Number of judgeships, 1941	New judgeships created						Number of judgeships, Jan. 1, 1967
		1942	1944	1949	1954	1961	1966	
Total	57	1	1	6	3	10	10	88
District of Columbia	6			3				9
1st	3							3
2d	6					3		9
3d	5		[1]	1		1		8
4th	3					2	2	7
5th	5	1			1	2	[2]4	[2]13
6th	6						2	8
7th	5			1		1	1	8
8th	7						1	8
9th	7				2			9
10th	4			1		1		6

[1] Temporary.
[2] 4 temporary judgeships.

In 1964, the Conference Committee on the Geographical Organization of the Courts made intensive studies of the Fifth and Ninth Circuit Courts of Appeals. It will be noted that the studies above referred to came about as a result of the need of the various courts of appeals for additional judgeships which were requested by the Chief Judge of the circuit, after discussion with his circuit council. This was a natural development because each chief judge is charged with the administration of his own circuit, and knows, better than anyone else, its needs.

The abrupt rise in the amount of business in all the courts of appeals since 1961 caused concern to both the Statistics Committee and Committee on Court Administration and a realization that, if the business of the courts of appeals continued to increase, some measures would be required to save them from disastrous docket congestion and delays. Therefore, Judge Biggs, at the Judicial Conference session of September 1965, made a motion, approved by the Conference, authorizing the Committees "to undertake a comprehensive study of the workload of the United States courts of appeals in light of the additional district judgeship positions created in 1961 and the proposals for additional district judgeships presently recommended and, on the basis of its study and evaluation, to recommend to the Conference any additional appellate judgeships which are required."

At the September 1966 session, the Conference was informed as follows:

"Judge Johnsen reported that the Committee has succeeded in obtaining the services of Mr. Will Shafroth, former Deputy Director

of the Administrative Office of the U.S. Courts, to undertake the necessary field work aimed at studying the varying practices among the courts of appeals in the handling of their administrative and judicial loads. Judge Johnsen advised that his Committee would report further to the Conference at its next meeting."

The present survey is the result of the Conference action.

General condition of the business of the courts of appeals

The present situation of the courts of appeals and the need for a full dress review of the condition of its business arises from the new sharp up-trend in the number of cases being filed annually during the last six years. The total increase in annual appeals only amounted to one-fifth from the year 1941 to 1960, that is, from 3,213 to 3,899. In the same two decades, the number of civil cases filed annually in the district courts had almost doubled. The number of cases commenced per judgeship in the courts of appeals was only one more in 1960 than in 1941, 57 as compared with 56. The number of circuit judgeships increased by 11 from 57 to 68 in the 20-year period.

But in the next six years, from 1960 to 1966, the increasing trend rose very sharply, from 3,899 to 6,548 cases commenced, or by two-thirds. Had it not been for the addition of ten judgeships in 1961, the situation would now have been very bad. The flow of cases for the years 1950 to 1966 are given in Table S–1. For the years 1960 to 1966, which was a critical period, cases filed, terminated and pending are given below:

APPEALS FILED, TERMINATED AND PENDING FISCAL YEARS 1960 THROUGH 1966

Fiscal year	Number of judgeships	Filed	Terminated	Pending	Terminated after hearing or submission
1960	68	3,899	3,713	2,220	2,681
1961	68	4,204	4,049	2,375	2,806
1962	78	4,587	3,931	3,031	2,895
1963	78	5,039	4,613	3,457	3,172
1964	78	5,412	5,089	3,780	3,552
1965	78	6,221	5,226	4,775	3,546
1966	78	6,548	5,936	5,387	4,087

Again in 1966, another omnibus judgeship bill was passed, and again ten more circuit judgeships were added. It had then become evident that the number of judges could not be increased indefinitely, and while one of my purposes has been to find out what the present condition of the business was and what new judgeships were needed, only a year after the passage of the last bill, I was equally concerned with investigating ways by which an increase in appellate cases could be handled without a continuous and parallel increase in the number of judges, which, of course, also has a direct bearing on judgeship needs.

The nature and effect of this increase is shown by the caseload per judgeship table which follows:

U.S. COURTS OF APPEALS—ALL CIRCUITS CASELOAD PER JUDGESHIP,[1] FISCAL YEARS 1950 THROUGH 1966

Fiscal year	All circuits	District of Columbia	1st	2d	3d	4th	5th	6th	7th	8th	9th	10th
1950	44	48	22	53	34	65	68	40	46	26	45	32
1951	46	44	27	60	39	58	70	38	39	32	58	39
1952	47	48	27	58	40	58	75	38	34	34	63	38
1953	50	47	28	59	42	56	80	51	43	33	64	38
1954	54	52	35	61	36	70	85	51	50	33	74	42
1955	54	49	51	97	44	67	75	53	48	37	43	48
1956	53	60	42	77	39	70	73	52	49	34	43	48
1957	54	55	38	89	39	73	85	61	44	29	47	44
1958	54	53	37	84	47	75	76	53	48	29	51	50
1959	55	60	47	87	42	74	79	45	50	33	50	46
1960	57	56	51	97	42	75	82	51	55	34	51	47
1961	62	59	49	112	48	83	90	57	55	35	49	57
1962	59	67	51	62	51	58	78	66	53	40	62	44
1963	65	80	44	74	44	70	95	62	54	36	76	45
1964	69	69	60	76	46	90	112	86	57	44	56	63
1965	80	63	64	86	56	114	115	106	67	43	90	69
1966	84	78	57	88	60	114	116	101	68	53	88	91
1966 (on basis of additional judgeships created in 1966)	74	78	57	88	60	81	80	75	59	47	88	91

[1] 3 omnibus judgeship bills were passed during the period from 1950 to 1966. In each instance the bill was passed in the 2d half of the fiscal year. Therefore, the additional judgeships are first counted in the fiscal year following the year of passage of the bill.

Note: Beginning in 1962, number of cases filed per judgeship are reduced by subtracting cases disposed of by consolidation, before dividing by number of judgeships.

From 1940 to 1960, the number of cases commenced annually increased 21 percent and the number of judges by 19 percent. Three new circuit positions were created in 1954 and from that time to 1960, the caseload per judge ranged from 54 to 57. By 1961, it had reached 62 per judge, and by 1966, even with the creation of ten positions, 84 per judge. With ten more new judgeships on March 18, 1966, the total number of judges was raised to 88 and by dividing this into the 1966 cases filed, we have a current load of 74 per judge, which is about one-third higher than the burden before the present sharply increasing trend had gotten underway. In other words, the present caseload, viewed as a whole, would appear to be too high, from a numercial standard, based on past history.

However, there are some additional factors to be taken into consideration. One of these was the great number of prisoner appeals in the Sixties from denials of habeas corpus petitions and motions to vacate sentence by district judges which rose from 290 in 1960 to 1,106 in 1966. In most circuits, these were screened by a panel or sometimes by a judge, and were only docketed if it appeared that there was some contention deserving of consideration by the court. But in the Fourth Circuit, the regular procedure was for the application to be screened by a panel of three judges and then to be docketed, even if, by the same order, it was dismissed. And in the Tenth Circuit, the docketing and hearing of these petitions without screening were virtually automatic. A relative comparison of the reported caseloads of the circuits thereby became unrealistic to the extent that it included cases of the same kind which were docketed in one circuit but not in another. Therefore the following caseload per judge table was prepared, eliminating prisoner applications. Since the Fourth Circuit is not in need of additional judges and since the Tenth Circuit is still above the national average, with prisoner cases not included, the difference may not be vital for our present purposes but is of a certain interest in demonstrating the effect the sudden rise in a particular class of appeals may have on the total.

U.S. COURTS OF APPEALS

CASELOAD PER JUDGESHIP, NOT INCLUDING PRISONER APPLICATIONS FOR POSTCONVICTION RELIEF[1]

Circuit	Caseload per judgeship: Fiscal year 1960	Fiscal year 1965	Fiscal year 1966	Fiscal year 1966 (with new judgeships)
All circuits	53	67	70	62
District of Columbia	(2)	57	69	69
1st	49	58	52	52
2d	89	77	82	82
3d	40	49	54	54
4th	63	70	65	46
5th	78	98	99	69
6th	46	88	80	60
7th	54	61	62	54
8th	31	37	48	42
9th	47	80	72	72
10th	39	42	64	64

[1] 3 omnibus judgeship bills were passed during the period from 1950 to 1966. In each instance the bill was passed in the 2d half of the fiscal year. Therefore, the additional judgeships are first counted in the fiscal year following the passage of the bill.
[2] Not available.

(Note: Beginning in 1962, number of cases filed per judgeship are reduced by subtracting cases disposed of by consolidation, before dividing by number of judgeships.)

Another factor is the increase in production per judge in the last 25 years. The best reflection of this is shown in the number of cases terminated after hearing or submission rather than total terminations, which include dismissals. The figures are given in Table S–1 attached. The cases so terminated per judge were as follows:

CASES TERMINATED AFTER HEARING OR SUBMISSION, PER JUDGESHIP, FISCAL YEARS 1950–66

Fiscal year	Number of judgeships	Cases terminated per judge	Fiscal year	Number of judgeships	Cases terminated per judge
1950	65	36	1959	68	40
1951	65	33	1960	68	39
1952	65	36	1961	68	41
1953	65	37	1962	78	37
1954	65	37	1963	78	41
1955	68	41	1964	78	46
1956	68	44	1965	78	45
1957	68	40	1966	78	52
1958	68	42			

Only in the last three years has there been a radical increase in the number of terminations per judgeship. In this period, there have been notable increases in the cases heard by the active judges of the court in the Third, Fourth, Sixth, Seventh, Eighth and Ninth Circuits, accompanied in some cases by a large increase in the use of retired judges of the circuit and also by a notable increase in the use of district judges in the Fifth Circuit. The point is that the courts have responded to increased pressure by a greater output per judge, in some cases by more use of their retired judges and also, in the Fifth Circuit, by a considerably greater use of the district judges of the circuit. For the courts as a whole there is a case statistically for some reduction in the caseload per judge by the creation of more judgeships.

Docket congestion

There is no doubt that the dockets have been falling behind in some circuits, and that immediate measures are necessary to restore a reasonable condition of currency to them. This will be considered, by circuit, below and in greater detail in Part II of this report, but an over-all review of the situation is warranted. Docket congestion means that a backlog of cases has accumulated which prevents current cases from being disposed of without unreasonable delay. It is caused by more cases being filed over a period than can be disposed of, and is usually accompanied by a constantly growing list of pending cases. Discussion of the business of the courts of appeals logically divides itself into two parts; first, the period from 1950 to 1960 and then the years from 1960 to the present. It is not necessary to go behind 1950, as during the previous decade war conditions affected the courts and the trend of decreasing caseloads in the courts of appeals hardly seems likely to be repeated. From 1950 to 1960 we have a period of slow but continued growth, while in the Sixties, we appear to have entered a new era which calls for close study, and, with its possibility of continuance, the threat of greater delay in the hearing and disposition of cases.

Increase in pending cases

Increase in pending cases in the courts of appeals, as shown in Table S–1, has been almost continuous since 1950, but from 1950 to 1960 only amounted to one-third, from 1,675 to 2,220. With the advent of the new decade, the pace increased very decidedly and the numbers had doubled in five years. By June 30, 1966, it had reached 5,387, which was 143 percent above the 2,220 of 1960. This was an increase from 33 cases pending per judgeship on June 30, 1960 to 61 pending as of the same date in 1966. Phrasing this another way, while the pending cases at the end of 1960 amounted to 57 percent of the number of cases filed the preceding year, at the end of 1966, the percentage had risen to 82 percent. At the current rate of disposition it would take nine and one-half months to dispose of pending cases, if no new ones were filed. A comparison of the increase in the decade from 1950 to 1960 with the increase since that date shows the seriousness of the present situation.

The time from filing to disposition

A further indication of the docket conditions is found in the statistics on median time from filing of the complete record to final disposition. This interval is a useful barometer of court delay. In 1950 it was 7.1 months and by 1960 it had dropped to 6.8 months. By 1966 it had gone up by steady degrees to a new high record of 8.3 months. (Table S–2). The 1965 and 1966 record for each circuit was as follows:

MEDIAN TIME INTERVAL FROM FILING TO DISPOSITION OF CASES DISPOSED OF AFTER HEARING OR SUBMISSION IN THE UNITED STATES COURTS OF APPEALS DURING THE FISCAL YEARS 1965 AND 1966

Circuit	Fiscal year 1965		Fiscal year 1966	
	Cases	Interval (months)	Cases	Interval (months)
All circuits	3,546	8.0	4,087	8.3
District of Columbia	426	7.9	448	7.0
1st	115	5.8	158	5.2
2d	427	6.3	428	6.3
3d	243	7.5	321	7.8
4th	266	5.7	277	6.8
5th	621	10.0	703	12.0
6th	300	11.2	325	13.1
7th	283	7.6	329	7.9
8th	198	5.6	243	6.3
9th	398	8.2	496	9.2
10th	269	6.6	359	5.5

One more sign of delay is found in the quarterly reports of cases held under submission more than three months. The last published report, as of September 30, 1966 is compared below with a similar report for the first quarter of fiscal year 1960 in the following table:

CASES UNDER SUBMISSION MORE THAN 3 MONTHS, AS OF SEPT. 30, 1966, AND SEPT. 30, 1959

	Total		More than 3 months but less than 6 months		More than 6 months but less than 9 months		More than 9 months but less than 1 year		More than 1 year	
	1966	1959	1966	1959	1966	1959	1966	1959	1966	1959
Total	223	40	109	28	61	10	33	2	20	------
District of Columbia	12	4	8	4	4	------	------	------	------	------
2d	4	16	2	10	2	5	------	1	------	------
3d	15	1	9	1	5	------	------	------	1	------
4th	48	------	19	------	13	------	8	------	8	------
5th	50	------	20	------	8	------	14	------	8	------
6th	25	------	18	------	3	------	4	------	------	------
8th	16	1	7	------	9	1	------	------	------	------
9th	51	17	24	12	17	4	7	1	3	------
10th	2	1	2	1	------	------	------	------	------	------

The increase from 40 cases in 1959 to 223 in 1966 is shocking. These reports were made after the summer vacation and every case listed had been heard or submitted before June 30. In 1966 there were 20 cases which had been under submission *over a year*. Only two circuits, the First and Seventh, had no cases to report, either in 1959 or 1966.

Flow of cases—First half of 1967

As shown by the following figures, the upward trend of appeals filed in the first half of the fiscal year 1967, from July 1 to December 31, 1966, continued. The rate of increase over the similar period of last year was about five percent, the same proportion as in the fiscal year 1966, but considerably less than the 11 percent increase of the year before. Although the cases terminated in the latest half-year period were 350 more than during the first half of fiscal year 1966, cases pending on December 31, 1966 were 219 more than a year previous. Substantial increases in the number of appeals filed occurred in the Third and Fourth Circuits.

The trend

In calculating the estimated business of the courts of appeals for the future, the best basis is the past, but there still remains the vital decision of how many years back it is necessary to go. Statisticians recommend a straight line trend, computed by the method of least squares, and this method has been used in preparing the accompanying table and chart, showing estimated projections to 1975, based on cases filed in each circuit from 1960 to 1966. The results obtained are close to what they would be if the increase in cases filed between 1960 and 1966 had been added to the number commenced in 1966, to obtain projection of the number to be filed in 1972. This is simply a less sophisticated method of calculation.

The chart shows that, by using the six-year base, 1960–1966 inclusive, the projected filings in 1972 would be 9,246. The "less sophisticated" method used above would produce an estimate of 9,197 for 1972. But the picture is radically changed if, instead of using a six-year base, which contains the period of greatest acceleration of the rate of increase, we use a 12-year period, that is, from 1954–1966, inclusive. The increase in 12 years has been 3,067. Half of that increase, 1,534, added to the number of cases commenced in 1966, or 6,548, produces an estimated 8,082 cases in 1972.

U.S. COURTS OF APPEALS

CASES COMMENCED AND TERMINATED DURING THE 1ST HALF OF FISCAL YEAR 1967 (JULY 1 THROUGH DEC. 31, 1966), BY CIRCUIT (PRELIMINARY FIGURES)

Circuit	Pending July 1, 1966	Commenced		Terminated	Pending Dec. 31, 1966
		1st half 1967	Comparison with 1st half 1966		
Total	5,387	3,704	+163	3,386	5,705
District of Columbia	461	385	−3	295	551
1st	63	89	−13	71	81
2d	617	421	+24	435	603
3d	372	371	+84	276	467
4th	405	369	+84	319	455
5th	1,004	546	+8	514	1,036
6th	656	337	−4	296	697
7th	359	242	−35	253	348
8th	243	231	+30	214	260
9th	807	435	+11	434	808
10th	400	278	−23	279	399

U.S. COURT OF APPEALS

TOTAL CASELOAD PROJECTIONS FOR 1967–75 BASED ON ACTUAL CASELOAD OF FILINGS FOR FISCAL YEARS 1960–66, BY CIRCUIT

Fiscal year	Total	District of Columbia	1st	2d	3d	4th	5th	6th	7th	8th	9th	10th
	Caseload of Appeals Commenced, 1960–66 [1]											
1960	3,899	505	154	582	296	224	577	306	329	237	455	234
1961	4,204	527	146	674	334	250	630	340	328	246	443	286
1962	4,587	601	154	555	408	292	703	394	374	282	560	264
1963	5,039	718	133	667	354	352	852	374	381	254	687	267
1964	5,412	624	179	680	368	450	1,010	513	396	305	507	380
1965	6,221	568	193	778	444	568	1,037	638	469	302	809	415
1966	6,548	702	170	793	482	569	1,041	603	475	374	796	543

[1] From 1962 to 1966 the number of cases commenced has been reduced by cases disposed of by consolidation.

U.S. COURT OF APPEALS—Continued

TOTAL CASELOAD PROJECTIONS FOR 1967–75 BASED ON ACTUAL CASELOAD OF FILINGS FOR FISCAL YEARS 1960–66, BY CIRCUIT—Continued

Fiscal year	Total	District of Columbia	1st	2d	3d	4th	5th	6th	7th	8th	9th	10th
	Projections of Caseloads, 1967–75[2]											
1967	6,959	706	185	814	489	648	1,195	682	499	364	851	527
1968	7,417	731	191	848	515	713	1,285	739	526	383	912	574
1969	7,874	756	197	883	542	778	1,374	797	525	403	973	620
1970	8,332	780	203	917	568	844	1,464	854	579	422	1,034	667
1971	8,789	805	209	952	595	909	1,554	911	605	442	1,094	713
1972	9,246	830	215	986	621	974	1,643	699	632	461	1,155	760
1973	9,704	855	221	1,021	647	1,040	1,733	1,026	658	481	1,216	806
1974	10,161	880	227	1,055	674	1,105	1,823	1,083	685	500	1,277	852
1975	10,618	905	233	1,090	700	1,170	1,913	1,141	711	520	1,338	899

[2] The projected 1967–75 filings represent a mathematically straight line trend based on the "method of least squares" using the data base of filings for fiscal years 1960–66. Because of rounding of separate circuits, totals for all circuits may be slightly different.

Between the two estimates we have a bracket of about twelve hundred cases. On the basis of the present number of judgeships this gives us between 92 and 105 cases per judgeship in 1972, on the basis of the present number of judgeships. While these figures were exceeded by three circuits, the Fourth, Fifth and Sixth, in 1966, they were recognized as being too high, and the Congress gave two additional judgeships to the Fourth, four to the Fifth and two to the Sixth.

An additional projection was made of appeals filed, omitting prisoner petitions, thereby permitting a valid comparison of the caseload per judge with other circuits and the national average without the distortion arising from the difference in the method of docketing these cases in the several circuits. The caseload per judge now and as projected in 1972, with prisoner cases omitted, on the basis of 1960 to 1966 filings would be as follows:

CASELOAD PER JUDGE IN 1966, AND 1972 PROJECTION[1] OMITTING ALL PRISONER APPLICATIONS, BASED ON 88 JUDGESHIPS, INCLUDING NEW POSITIONS

Circuit	1966 (actual)	1972 (projected)
Total	62	82
District of Columbia	69	77
1st	52	61
2d	82	97
3d	54	66
4th	46	71
5th	69	103
6th	60	94
7th	54	68
8th	42	50
9th	72	103
10th	64	80

Factors indicating further increases in the caseload in future years include an increasing federalism in our Government, an increasing population, an increasing number of district judges and an inevitable increase in criminal appeals.

The tendency towards increase of cases under the federal question jurisdiction and an increase of administrative agency cases is marked. Some examples of recent statutes containing either judicial review of enforcement provisions are given in Exhibit A.

The population of the United States is increasing about one and one-half percent a year, but in some populous states, Florida and California, by twice that proportion. Population estimates for the United States and projections by the Census Bureau for the years 1966, 1970, 1975, 1980 and 1985 are as follows:

PROJECTION OF THE POPULATION OF THE UNITED STATES, 1970 TO 1985
[Numbers in millions]

	1960	1966	1970	1975	1980	1985
Population*	[1] 179	[2] 196	[2] 208	[2] 225	[2] 245	[2] 266
Percentage increase over 1960	----	----	16.2	25.7	36.9	48.6

*From Population Estimates, U.S. Bureau, Series P-25, No. 326, Feb. 7, 1966; and No. 348, Sept. 16, 1966.
[1] Actual.
[2] Estimated.

Criminal appeals begun annually have doubled since 1960 and the rate of growth increased in 1966. With the passage of the Criminal Justice Act, insuring every indigent criminal defendant in the federal courts an appeal without cost and with representation by counsel paid by the Government, it cannot be doubted that criminal appeals will continue to increase in number. Habeas corpus cases and other prisoner petitions are also still on the rise.

Summary of the business of circuits where new judgeships are requested

The need for additional judgeships must be determined by a consideration of the needs of the individual circuits. A full discussion of each circuit is contained in Part II of the report, to which reference is made. Here, it is only necessary to give a short summary of the docket condition of a few circuits where additional judgeships are being sought or where, as in the Fifth Circuit, a request has been voted by the circuit council to make temporary judgeships permanent.

Third circuit

The number of judgeships of the Court of Appeals of the Third Circuit was increased from seven to eight in 1961, but an increase of 44 percent in cases filed annually since that year has persuaded Chief Judge Staley to request an additional judgeship for the court. He is supported by the Judicial Council of the Circuit in this request, and by Senior Judge Biggs who served as Chief Judge of the circuit for more than 25 years.

There are some persuasive arguments to support this view, in spite of the fact that the caseload per judge is well below the national average, 60 in comparison with 74. Indications of congestion include a more than doubling of the pending cases from 1961 to 1966, an increase in the median time for disposition from 5.9 months to 7.8 months in five years, and a total of 15 cases held under advisement more than three months on September 30, 1966, one of which had been under submission over a year on that date. Efforts to increase the number of terminations have included the writing of a very substantial number of per curiam opinions, 144 in 1966 out of a total of 321 cases decided after hearing or submission, and an even larger number of per curiams in 1965.

However, the chief argument for increasing the number of judgeships in this court is that the steady increase in population and industry, which has resulted in an increase of almost half in the number of cases filed per year since 1961 is continuing and the caseload can be expected to increase with it. The straight line trend according to the approved method of least squares, predicts a caseload of over 600 cases by 1972.

Fifth circuit

A constantly increasing caseload of cases filed annually in this court which rose by 40 percent in the decade from 1950 to 1960 and by another 80 percent between 1960 and 1966 has kept this court in a condition of crisis, although the number of judgeships was increased from six to seven in 1954, from seven to nine in 1961 and from nine to thirteen in 1966, the four judgeships created in 1966 being temporary. Further increases in the caseload are to be expected with many unsettled controversies in the fields of integration, civil rights and apportionment to be passed on, and with a large increase of trials expected as the result of the creation of 14 district judgeships in the circuit in 1966. The court docket is badly congested, the median interval from filing to disposition is up to 12 months, compared to the national average of 8.3 months, with 50 cases under submission more than three months on September 30, 1966, of which number 30 had been under submission more than six months, and an incredible 223 cases in all under submission and awaiting decision on December 2, 1966.

With the four additional judgeships in 1966, three of which have been filled, and a continued heavy use of district judges, retired judges of the circuit and visiting judges, Judge Brown, in charge of assignments, is appointing panels for 45 weeks of court, or practically twice as many weekly panels as in 1960. Thus the situation is fully realized and is being coped with by this well administered and hard-working court. This is keeping the court on an emergency basis, and not only are more "outside" judges, that is not present or former active judges of the court, being used than anywhere else, but the active judges of the court are continuing to hear or take under submission from a third to a half more cases per judge than the average of the other circuits.

With a present caseload per judge of 80 (dividing the number of cases filed in 1966 by the present number of judgeships, 13) compared with a national average of 74, a good case can be made for the creation of additional positions, but Chief Judge Tuttle prefers at this time to request that his present four temporary judgeships be made permanent and has filed an official request of his Circuit Council that the Committee and the Judicial Conference support this resolution.

Ninth circuit

Since the increase in the number of judgeships in this court from seven to nine in 1954, the number of cases filed has increased by more than half and the number pending, by 40 percent. The caseload per judge in 1966 was 88 which compares with a national caseload of 74, if the new judgeships created in 1966 are included in calculating the 1966 national caseload per judge. Two senior judges of the court are continuing to render substantial service, valuable help is being received from a retired judge of the Court of Claims, who is resident in California, and continuous assistance is being given by district judges of the circuit. But evidence of congestion is seen in recent increases in the pending caseload from 452 in 1964 to 807 in 1966, in the excessively long median of 9.2 months from filing to disposition, compared with the national median of 8.3 months, and in the 51 cases reported as being held under submission over three months on September 30, 1966, more than in any other circuit. Of these 51 cases, three had been held over one year; seven, for more than nine months but less than a year; 17, for more than six months but less than 9 months and 24, for more than three months but less than six.

Chief Judge Chambers is requesting four additional judgeships to cover the need at this time and to meet what he considers the inevitable future expansion of the court business. The tremendous growth of population and the projected future trend by Census estimates, particularly in California, Arizona, and Nevada is shown by the table in the Ninth Circuit report in Part II of this report. The straight line trend of estimated caseloads of the future predicts that 1,034 cases

will be filed in 1970, 1,155, in 1972 and 1,338, in 1975.

Tenth circuit

Appeals filed in this court increased 50 percent between 1950 and 1960 and 100 percent between 1960 and 1966. The caseload per judgeship of cases filed has gone from 32 in 1950 to 91 in 1966, the latter figure comparing with a national caseload per judge of 74, including the 10 circuit judgeships created by the omnibus bill of March 18, 1966.

Chief Judge Murrah attributes the ability of the Court to keep the docket in a current condition not only to the increased output of the active judges but also to the great service rendered by the retired judges and most particularly to the work of former Chief Judge Orie L. Phillips who has been in retired status for 10 years. In 1966, 13 percent of the number of sittings of individual judges on cases heard were by retired circuit judges of the circuit compared with a similar national percentage of 9 percent; for the 6 years from 1961 to 1966, the Tenth Circuit had an average for the retired circuit judges of the circuit of 10½ percent of all sittings compared with the national percentage of 6 percent.

The increasing burden on the court in the last five years is shown by the fact that since 1962 when the court first had a regular complement of six active circuit judges the average number of cases in which these judges sat per year has doubled.

But in interpreting the figures and comparing them with the caseloads of other circuits, it must be taken into account that the Tenth Circuit Court of Appeals has been the only one which has automatically granted permission for prisoner petitioners to proceed in forma pauperis and docketed all appeals filed without first entering them on the miscellaneous record and screening them. Many of the 167 prisoner applications filed in the Tenth Circuit Court of Appeals in 1966 would never have gotten on the dockets of most the other circuits.

But even without these prisoner appeals, which have had such a prodigious growth, the civil and criminal appeals from the district courts in all courts of appeals have increased 70 percent since 1966 and in the Tenth Circuit Court of Appeals by 100 percent. The method of handling prisoner applications used in this court has resulted in a greater percentage of the prisoner cases being docketed on the court's docket than in most other circuits. However, in view of the very heavy caseload in the Court of Appeals, the point need not be stressed because the planned revision of this procedure in the Tenth Circuit is not likely to reduce the caseload per judge to the national level.

Although appeals from administrative agencies follow the national average per judge, some very onerous cases in this category have been filed during the last year in this circuit and are now before the court.

Chief Judge Murrah and Judge Phillips before him have been firm believers in the necessity for providing the necessary judgeships in the court of appeals and the district courts of the circuit in advance of the time when they are desperately needed. The excellent record of the trial and appellate courts of the circuit is partly the result of this policy. Now Judge Murrah again applies the principle in asking for another judgeship for his court. The statistics support his request.

Possibilities for additional production

Many judges with whom I talked were concerned about the future of the Courts of Appeals in view of the constantly increasing work load. They agreed that the prime need was the discovery of means of increasing production without increasing the number of judges and without diminishing the quality of the work. The Chief Justice has emphasized this repeatedly and expressed it eloquently in his address to the American Law Institute in 1965 from which the following excerpt is quoted:

"The time has now come when we must probe more deeply than we have in the past and with a much higher degree of inventiveness into the diagnosis of the problems of judicial administration to assure that our system is responsive to the demands of the age in which we live. We must utilize the aids, devices and techniques which this generation has developed, as do the other professions, so that we can assure to our people the prompt and effective administration of justice to which they are entitled. This is the responsibility of the entire legal profession—professor, practitioner and judge. The need for action is immediate and urgent. I hope and urge that the bar associations of the country and the learned societies will devote their talents and efforts to seeking a solution to this critical problem. We cannot afford to go on pyramiding judgeships periodically without making our judicial system responsive to and part of the times in which we live."

There is no doubt that much can be done in this direction but it requires the careful attention of each Chief Judge, as conditions differ in different circuits, and the cooperation of Congress in providing ways and means and necessary appropriations. The following excerpts from a letter of November 18, 1966, to me from Chief Judge Lumbard are of interest in this connection:

"As I tried to tell you, I think our first job is to find ways in which we can handle our caseload more expeditiously and yet find enough time to give adequate study to the more important and difficult cases. I am convinced that we can do a great deal more than we have been doing. The most obvious means at hand is to increase the supporting personnel. This can be done by furnishing each circuit judge with an additional law clerk, if he wishes one, and by adequately staffing the clerks' offices so that the clerk and his principal deputy will have enough time to assist the court in those procedures which will help to spot and weed out frivolous appeals at an early date.

"If the court has sufficient supporting personnel, it is in the position to give adequate study to each case prior to hearing the argument and consequently it is in a position to dispose summarily of many appeals. This process takes a little time to develop because many of our older judges are simply not accustomed to doing things this way and they are reluctant to embarrass members of the bar by deciding cases in open court. In the course of time when the bar becomes more accustomed to this procedure and sees the value in it I am sure that judges will be more ready to follow this procedure. The fact is that at least one-third of our appeals can be determined to be in the frivolous category and this can be done without too much work prior to the argument.

"I thought you would be interested in the summaries that I was in the course of making when you were here and I enclose a summary[1] of our decisions disposed of by written opinion or summary disposition from October 1, 1965 to September 30, 1966. You will see from this that our summary dispositions ran a bit over 14% of 63 out of 438. Also enclosed is an analysis[1] of the cases disposed of summarily, of which I may have already given you a copy. I believe you took with you a list of the 105 per curiam cases.

"I cannot emphasize too strongly the importance of operating with courts of appeals which have not more than nine active circuit judges. As each year goes by our circuit councils consisting of the active judges are called upon to do more supervisory work and to undertake additional responsibilities, such as the operation of the machinery under the Criminal Justice Act. The delicate problems which arise in supervising the district courts can best be handled in most instances by informal action. This means that there must be constant communication between the chief judge and the other circuit judges. Things are much better and more smoothly handled by informal procedures and there is a limit to the number of meetings which can be held, especially where the judges are geographically dispersed. It is even difficult to arrange these meetings in our circuit where six of the nine judges are located in New York City.

"The difficulties of supervision and administration are compounded geometrically as the court increases in size. Therefore if any one court finds that it cannot operate with nine active circuit judges even with all the supporting personnel and other help which is available, I think the better solution is to create more circuits.

"Sterry Waterman tells me that you and he discussed the matter of an administrative aide to the chief judge of each circuit. I think this would be most helpful. There are many matters which the chief judge must follow and must deal with and I have found it very difficult to keep track of these things and to follow through as our court is now organized."

The output per judge

Judges differ, cases differ and methods of administration differ, but over a period of years it is possible to compare circuits as to their relative output per judge and the relation of individual circuits to a national average. Administrative Office statistics are based on the number of sittings—one case heard by one judge is a sitting—and the average number of sittings per judge are actually sittings per judgeship, that is the number of sittings divided by the number of judgeships, because actual figures concerning the number of judges available for sitting at all times during a year are not kept. Therefore, a vacancy such as that in the case of the late Shackelford Miller in the Sixth Circuit, which has lasted for 18 months, or the vacancy in the position of the fourth additional judgeship in the Fifth Circuit Court of Appeals, which has continued since the passage of the Omnibus bill of March 18, 1966 or in the First Circuit, where for a time Chief Judge Aldrich was the only judge of the court available for duty, are not taken into account. Nor are periods of sickness of active judges of the court, which takes them out of circulation, considered in the calculations of sittings per judge. Nevertheless, over a period of years, these factors tend to iron out, at least they are not sufficiently important to invalidate the results. Therefore, the following table of the number of sittings per active judgeship (the judgeships being counted as of the year following their creation) are of interest, and worthy of study.

[1] Attached as Exhibit B.

NUMBER OF SITTINGS PER JUDGESHIP OF ACTIVE CIRCUIT JUDGES OF THE CIRCUIT, 1961–66

[1 judge hearing 1 case is 1 sitting]

Fiscal year	All circuits	District of Columbia	1st	2d	3d	4th	5th	6th	7th	8th	9th	10th
1961	109	111	88	128	89	141	181	126	87	49	108	98
1962	103	116	98	106	81	111	169	107	96	52	96	83
1963	107	124	79	117	71	123	166	96	99	58	98	113
1964	121	131	123	130	87	137	174	130	108	75	112	106
1965	125	137	68	148	98	156	145	142	110	91	114	139
1966	129	104	131	129	109	167	167	126	126	70	137	162

Note: Derived from J.S. 32 monthly reports to the Administrative Office. Additional judgeships created in 1961 are first counted in 1962. Judgeships created in 1966 are not counted.

If we leave out of consideration the First Circuit and the Eighth where the caseload has been small, the national average per judge for the six years for each year has been as follows:

Average sittings per active judgeship for nine circuits

1961	118
1962	109
1963	113
1964	126
1965	131
1966	135

It will be observed that the sittings per judgeship in the Fifth Circuit were from one-third to one-half more than the national average. The reasons for this may lie in the number of weeks of court during which each active judge was called to sit, the number of days a week, and the number of cases per day. This is a matter of custom and habit in each court and no two work in quite the same way. In the Fifth Circuit, a panel sits five days a week and hears four cases per day and sometimes ten prisoner petitions which have reached the docket after screening are added to the Thursday calendar. They are usually submitted without argument and are substituted for the regular four cases ordinarily heard on Friday. In the Third Circuit there is a four day week, no cases being heard on Wednesday. In the Sixth Circuit, during the term, court is regularly held on Saturday morning and no holidays are observed during term time (which does not include Christmas and New Year).

By a schedule which provides approximately 180 sittings a year per active judge, the Fifth Circuit has been able to secure what it believes to be the maximum production from the active members of its court. It has done this by calendaring four cases a day for five days a week for one week in every month from September to June. The problem of increasing production, per judge, is one which is deserving of study by each chief judge and each circuit council. Is the over-all goal of 180 sittings per judge necessary and feasible for the circuit and if so, is this better achieved by hearing four cases a day for five days a week by increasing the number of days of sitting in a month or in a term, or in some other way?

Output depends on many factors, not the least of which is the number of opinions. It is here where the per curiam opinions are important. The Fifth Circuit with its crowded calendars is resorting freely to per curiams. In 1966, 310 opinions out of 703 cases heard and decided after hearing and submission were per curiam. Also there is an important possibility of deciding cases from the bench, either without opinion or with an oral opinion. As stated in Chief Judge Lumbard's letter, quoted above, about one-seventh of all the Second Circuit cases are decided in that way. There is a rather noticeable discrepancy in the extent to which per curiams are being used in the various circuits. The following table from the Annual Report of the Administrative Office for 1966 shows this and also the number of cases decided after hearing and submission, with opinion:

OPINIONS IN CASES DECIDED AFTER HEARING OR SUBMISSION IN THE U.S. COURTS OF APPEALS, FISCAL YEAR 1966

Circuit	Cases decided after hearing or submission			
	Total	No written opinion	Signed opinion	Per curiam opinion
All circuits	4,087	575	2,428	1,084
District of Columbia	448	198	179	71
1st	158	28	108	22
2d	428	75	263	90
3d	321	40	137	144
4th	277	16	166	95
5th	703	45	348	310
6th	325	52	171	102
7th	329	30	283	16
8th	243	11	200	32
9th	496	55	336	105
10th	359	25	237	97

Some judges object to what they consider too great a use of per curiams.

Time for hearing argument varies with the circuits but most frequently there is a general limitation of half an hour for each side. This seems to work out well, and circuits giving a greater allowance of time should consider whether a shorter period would not serve equally well, particularly if the court will entertain motions for a longer time if good reason is shown.

The District of Columbia Court has decided to set up a summary calendar in which only 15 minutes on a side would be permitted for argument.[2] (Cf. Supreme Court Rule 44, par. 3.) It is obvious that there are many cases which could be argued in this time. In the Second Circuit, while the time allowed in its rules for argument is 45 minutes on a side, the clerk regularly sends out a notice to attorneys in advance of calendaring, asking how much time counsel wants for argument, and, if more than 20 minutes, why more time is necessary.

A tendency not to permit argument of motions except by special order of the court was observed. Several circuits have adopted the rule recently. This can avoid an unnecessary waste of time. The motions calendar can then be handled by judges in conference, and the time to hear it need not be subtracted from the time necessary for hearing the regular calendar. This can be done without strain if each motion is accompanied by a short memorandum like that prepared by the motions commissioner in the District of Columbia. The District of Columbia procedure was especially commended to me by a Fourth Circuit judge who had observed it during an assignment as visiting judge.

One of the reasons for the large number of sittings per judge in the Fifth Circuit is the constant pressure under which that court has been operating. No court wants this kind of pressure, and that is the reason that it is essential that the Chief Judge and the council should take all possible steps to prevent it before it happens.

Additional law clerks

In looking for ways to increase the output of the courts of appeals, the most widely suggested remedy is an increase in the number of law clerks furnished to the judges.

[2] Rule 4(e) of the court's rules, as amended, reads as follows:

"(e) *Summary Calendar.*

"Whenever the court, *sua sponte* or on suggestion of a party, concludes that a case is of such character as not to justify extended oral argument, the case may be placed on the summary calendar.

"In all such cases, except on special order, each side will be permitted only fifteen minutes for the argument, and only one counsel will be heard on the same side. No separate summary calendar will be maintained. Cases will be placed on the summary calendar by the Clerk, pursuant to directions from the court, and such cases may or may not be heard on days set for oral argument of cases not on the summary calendar."

The use of messengers as law clerks has been employed as a substitute for a second law clerk in the Second Circuit (seven law clerk messengers) in the District of Columbia and in the Fifth Circuit, (four law clerk messengers), and in the Third and Fourth Circuits, one each, but when the Budget Committee a year ago asked for 36 additional messengers for the courts of appeals from the House Appropriations Committee, it had no success in securing a single additional position of this type. As a result, judges who have long been seeking such help, such as Judge Bryan of the Fourth Circuit, continue to be discriminated against when new judges of junior status in another circuit are given the advantage of such assistance by virtue of a pre-existing position in that circuit. Since the messenger position only carries a JSP–2 classification, there are considerable difficulties in getting satisfactory law clerks at that grade. There is a general opinion that additional law clerks can improve production, and this is a sufficient reason for providing them where they are needed. All judges, however, do not want them. The great help which Senator Tydings, Chairman of the Senate Committee on Improvements in Judicial Machinery has given in the past can continue to be counted on in the future, and it is my conclusion that a substantial improvement in output can result from providing each judge who can demonstrate his need with two permanent law clerks, as originally advocated by Senator Tydings last year. There is one further value in such a provision. A system of promotion, where desired, can result in keeping a law clerk for two years and there seems to be little doubt that he can be more useful in his second year than in his first.

The Judicial Conference in January 1964 recommended "that each court of appeals be authorized to employ not to exceed three law clerks to be assigned from time to time by the Chief Judge to cases or judges as he may deem desirable." Thereafter, a provision for 33 law clerks was included in the 1966 budget requests. This was unsuccessful but was renewed in the 1967 estimates. It was rejected by the House, but the Senate Committee, after hearing Senator Tydings in support of the recommendation, voted for two law clerks per circuit. Senator Tydings again supported full acceptance of the Conference proposal on the Senate floor and the Senate raised the number to three per circuit. In conference, the addition of only one per circuit was agreed upon and the bill passed in September of last year with that provision.

The Judicial Conference, at its September 1966 session, approved the recomendation of its Committee on Supporting Personnel to defer the request of the Court of Appeals of the Second Circuit to recommend the creation of a combination position of messenger-law clerk until Congress takes action on the current appropriation request to raise the number of staff law clerks per circuit to three.

Screening the appeals

The idea of using more law clerk assistance does not mean that their efforts will be devoted wholly to research in cases heard or submitted. The keynote of more production in the courts of appeals may well be in a better screening of the cases on the docket in advance of argument as suggested by Judge Lumbard, so that more time will be available for the more difficult cases and there may be a more summary disposition of frivolous appeals. I am not suggesting that the decision as to whether or not an appeal is frivolous should be left to law clerks. However, a careful analysis of the briefs and record by a competent law clerk, summarized in a memorandum furnished to the Chief Judge or a judge designated by him can be used in putting a case on a Summary Docket, with limited time for argument, as the District of Columbia court has just de-

cided to do, or in alerting the panel to which it is assigned that it is a possible candidate for a decision from the bench or for a per curiam opinion.

The present practice of bench memoranda for the judges, used by some judges in some circuits does not fill this need. There should be a screening *before* the case goes on the calendar or very shortly thereafter. This need not be by a staff law clerk but a certain number of cases can be assigned to each judge of the panel whose law clerks could fulfill this assignment. The mechanics are not important. The point is that time of the judge can be saved if means can be found to discover frivolous appeals and to dispose of them with a smaller expenditure of the limited and priceless time which the individual judge has for hearing and deciding cases and writing opinions.

If the quality of criminal appeals can be judged by the percentage of reversals of those which are argued or submitted, it is evident that it has deteriorated substantialy in recent years. From the B–1 Table of the Annual reports of the Administrative Office, the following figures are quoted:

NUMBER OF CRIMINAL CASES HEARD OR SUBMITTED IN ALL CIRCUITS AND PERCENTAGE OF REVERSALS (FROM B–1 TABLE OF ANNUAL REPORTS OF THE DIRECTOR)

Fiscal year	Number of criminal appeals	Percent reversed or denied
1960	441	17.7
1961	448	21.4
1962	450	20.9
1963	454	20.3
1964	644	18.2
1965	688	16.9
1966	801	14.4

It is apparent that there has been a very great increase in these appeals, in the sixties and a decided decrease in the percentage of reversals. With free appeals provided by the Criminal Justice Act, effective in August, 1965, the number of appeals has continued to increase while the percentage of reversals was decreasing. If a large number of these appeals are frivolous and without merit, then law clerks can be of substantial assistance in separating these cases, without in any way depriving any defendant of his constitutional right to a fair hearing.

The effectiveness of a screening, by staff law clerks, of prisoner applications for postconviction relief has been demonstrated with great success and is now used in all circuits where these petitions are being filed in volume.

There may be some categories of civil cases where a screening process may also be useful and more information concerning the disposition of various types of civil appeals could be helpful in pointing out possibilities.

Retirement

Senior judges in the circuits furnished nine percent of the total judgepower of the courts of appeals in 1966. Since there were 78 judgeships in that year, this was equivalent to the work of seven active judges. Since retirement in the federal judiciary is entirely voluntary, and work after retirement is optional, it may be inquired what can be done about this. The answer can best be found by consulting the chief judges of those circuits where a custom has been established in the court of appeals of taking senior status at the age of 70 or shortly thereafter. The appellate record on this is excellent and, no doubt, comes about through a liberal treatment of senior judges as to accommodations, staff and facilities. Probably, the retirement provisions for the federal judiciary are the best in the world and if properly administered through established custom in the circuits, can obviate the need for compulsory retirement, which has been proposed as a means for increasing efficiency.

The number of active circuit judges above the age of 70 years as of January 1, 1967 was as follows:

Number of active judges over 70

Circuit:	
Third	2
Fourth	1
Seventh	2
District of Columbia	1

Whenever a judge over the age of 70, who is still able and willing to work, retires, he creates an additional judgeship for the circuit, to the extent that he is willing to continue his full activity. Because of his long service with the court, his usefulness to it is much greater than a mathematical computation of the number of cases heard by him shows.

Vacancies

There are at the present time three vacancies in the courts of appeals as follows: Third, 1 existing since August 15, 1966; Fifth, 1 existing since March 18, 1966; and Sixth, 1 existing since November 1, 1965.

Vacancies allowed to continue over 60 days are a disservice to the litigants of the circuits involved. The responsibility for filling them rests directly on the President and the Attorney General. Full deference to the right of the Senate to "advise and consent" does not require an indefinite delay in sending up an appointment. I suggest that the Committee on Judicial Statistics regularly append to its report to the Judicial Conference a list of judicial vacancies, both district and circuit, including the date on which they occurred.

Service by district judges within the circuit and by visiting judges

A survey of the use of judges other than active judges of the individual courts shows that senior judges of the court on the average (1961–1966) are responsible for 6.0 percent of the total sittings, district judges of the circuit for 8.6 percent and visiting judges, mostly circuit judges, for 2.3 percent. There are two things which can be said about the service of district judges. Some circuits make a regular practice of inviting district judges to sit on the court of appeals soon after they are appointed to give them personal experience with how cases are processed and decided in the higher court. This practice is generally considered helpful. The second thing to be said is that, the calling of a district judge to sit on the court of appeals is an interruption to his work and, if he has an opinion to write, a considerable task which, in some cases has resulted in delays in deciding cases.

If the district court from which the judge is drawn has a congested docket, an assignment to the court of appeals may add to the congestion in his court. The use of this device thus requires a balancing of considerations by the Chief Judge, but except in times of crisis should not be regarded as a satisfactory substitute for additional needed judgepower.

The largest use of district judges of the circuit in the courts of appeals has occurred in the Fifth Circuit where, in 1966, 17 district judges sat, for a total of 464 sittings, hearing 155 cases. This was 20 percent of the total number of sittings for the year. The critical condition of the docket of that court necessitated this heavy draft on the district judges of the circuit.

Prisoner applications for postconviction relief

The largest single factor in the increase of business in the federal courts in the last six years has been the prodigious growth in prisoner petitions. The increase in this business in the district courts is shown by the accompanying chart.

In the Courts of Appeals, the number of prisoner petitions docketed on the main dockets of the courts, increased from 290 in 1960 to 1,106 in 1966. In addition there were 2,005 proceedings reported on the miscellaneous records of the courts of appeals in 1966, most of which were prisoner petitions which were disposed of without ever reaching the regular dockets.

The following table shows the number of these petitions entered on the Miscellaneous Record of the Court of Appeals in 1966, by circuit.

U.S. COURTS OF APPEALS

MISCELLANEOUS PROCEEDINGS FILED DURING THE FISCAL YEAR 1966

Circuit	Total filed	From denials of habeas corpus petitions by State and local prisoners [1]	From denials of habeas corpus petitions by Federal prisoners [1]	From motions to vacate sentence [1]	Direct applications for writs of habeas corpus, 28 U.S.C. 2241(a)	Other
Total	2,005	803	134	132	59	877
District of Columbia	238	---	60	50	2	126
1st	28	8	---	---	---	20
2d	343	199	19	---	---	125
3d	233	101	5	9	5	113
4th	157	69	18	24	15	31
5th	250	107	10	23	14	96
6th	95	4	---	2	15	74
7th	158	54	12	19	7	66
8th	36	11	6	3	1	15
9th	447	244	3	2	---	198
10th	20	6	1	---	---	13

[1] In forma pauperis applications.

The last column of the table, headed "Other", contains many prisoner applications for all types of relief, including applications for bail, mandamus against the warden, petitions for transfer to another institution, and many other prayers for redress of alleged grievances, and it also contains other requests and motions bearing on civil and criminal cases which have not been regularly docketed in the court of appeals.

The table includes only petitions, motions and applications in cases in which no appeal has been docketed on the court's docket, because the formal requirements of docketing, such as the payment of a docketing fee or the granting of a motion to proceed in forma pauperis, have not been met. A substantial number of these proceedings entered on the miscellaneous record of the court, after being considered by a panel of the court, or sometimes by one judge, as in the case of certain motions, are ordered to be docketed and placed on the calendar, for hearing or submission.

In analyzing the caseloads of the courts, it has been important to consider separately these prisoner cases, which reach the docket and are therefore counted as cases filed, for the reason that in two circuits, they receive different treatment. In the Fourth Circuit

many prisoner proceedings on the Miscellaneous Record, after being screened by a law clerk and passed on by a panel of three judges to whom the papers are sent, are dismissed but are docketed on the docket of the court of appeals by the same order. In other circuits, applications which are dismissed after consideration by the court are never entered on the court's docket. In the Tenth Circuit prisoner applications are normally entered directly on the docket of the court, as the application to proceed on appeal in forma pauperis or for a certificate of probable cause has usually been granted automatically. The ordinary procedure is then to appoint counsel and to put the case on the calendar for hearing in regular order. The circuit now has a staff law clerk to screen the case, and write a memorandum in each case which will be referred to a panel of judges which will determine whether it should be docketed for hearing or dismissed without hearing.

Since prisoner appeals docketed in 1966 amounted to almost one-fifth of the total cases filed, it is obvious that, in view of the different procedures for docketing them they must be considered separately. It is for this reason that a separate table, S–5, has been prepared for each circuit and for all circuits, and separate accounts of the methods of handling them in each circuit is included in Part II.

The effect of these applications, on the percentage of increase of cases filed between 1960 and 1966 is shown in the following table:

CIVIL AND CRIMINAL APPEALS FROM THE DISTRICT COURTS FOR FISCAL YEARS 1960 AND 1966 COMPARED WITH PRISONER PETITIONS IN THE COURTS OF APPEALS

	All circuits			
	1960	1966	Amount of increase	Per-cent of in-crease
(1) Total civil and criminal appeals	2,945	5,605	2,660	90.0
Criminal appeals	623	1,458	835	134.0
Civil appeals	2,322	4,157	1,825	79.0
(2) Total prisoner petitions	290	1,104	814	281.0
Federal	179	396	213	119.0
State	111	712	601	541.0
Civil and criminal appeals minus prisoner petitions	2,655	4,501	1,846	70.0

The best description of the problem of prisoner applications which I have read is contained in an article in the American Bar Association Journal by Professor Charles Wright, entitled, "The Federal Courts—a Century after Appomattox"[3] in which he says:

"Stemming the Flood of Prisoners' Applications: One of the places where procedural reform does offer promise is in the handling of petitions for habeas corpus and motions to vacate sentences. Even without the population explosion, these threaten to engulf the courts. In fiscal 1962, there were 1,523 such petitions and motions filed in the federal courts. Three years later, there were 5,786. Add to these the other petitions from prisoners complaining of maltreatment by prison authorities and similar things and prisoner applications of all types now represent 12 per cent of all the civil cases in the district courts.

"If there is anything absolutely certain, it is that the number of these applications will continue to increase. It is equally certain that the overwhelming bulk of them are utterly without merit. The filing of such applications has a beneficial effect on the prisoner, since it gives him hope and a sense of purpose, but the federal courts are too busy deciding cases to be used as a form of occupational therapy for those in penitentiaries.

"With this flood of unjustified applications, it is easy to say, as Justice Jackson did, that 'he who must search a haystack for a needle is likely to end up with the attitude that the needle is not worth the search'. (Brown v. Allen, 344, U.S. 443, 537 (1953), concurring opinion). To that attitude, Justice Walter V. Schaefer of the Illinois Supreme Court had the classic answer when he said 'it is not a needle we are looking for in these stacks of paper, but the rights of a human being'. (Schaefer, Federalism and State Criminal Procedure, 70 Harv. L.Rev. 1, 25; 1956). In the rare case in which such a petition is successful, the result is a vindication of our belief in government under law and equal treatment for even the most lowly. But we must devise better methods to screen these applications, so that our judges are not overwhelmed by them."

I am happy to report that the better methods referred to by Professor Wright are being found for the courts of appeals. Two staff law clerks are screening these petitions before they are submitted to a panel in the Second and Fifth Circuits, the Motions Commissioner and his assistant law clerks are performing this function in the District of Columbia Court of Appeals, one law clerk and the law clerk and messenger of the Chief Judge are doing it in the Fourth Circuit, one "Motions clerk" is doing it in the Ninth Circuit, and newly authorized staff law clerks for the Third, Sixth and Tenth Circuits are now or soon will be performing this function. In the First, Seventh and Eighth Circuits, the volume of habeas corpus and 2,255 appeals has not been sufficient to create a problem calling for the appointment of a staff law clerk for this purpose. The staff law clerks provided by the Congress as a part of the 1967 appropriations have proved a god-send in making it possible to take advantage of more efficient methods of processing prisoner appeals in the courts of appeals, which have been demonstrated, by experience, to save the time of judges. It is suggested that some training of these staff law clerks, by exchange of experience and perhaps some inter-circuit exchange of memoranda, is worthy of consideration. I have been impressed with the high quality and devotion of the six whom I have interviewed.

One further feature of the handling of prisoner applications may be mentioned. In most of the circuits, prisoner petitions asking for permission to proceed on appeal in forma pauperis, or for a certificate of probable cause, or both, where this has not been granted in the district court are referred to a panel of three judges. In the Fourth Circuit, a memorandum opinion is written by the Chief Judge, or by a judge designated by him, in practically every case. On the other hand, in the Sixth and Seventh and sometimes in the Ninth Circuit, the petitions are treated as motions, are passed to a single judge, sometimes referred to as the "administrative judge" and may be decided by him, or may be referred by him to a panel for decision as to whether to docket or dismiss. For example, the Sixth Circuit provides by rule for such procedure, and Chief Judge Weick expressed himself as having no doubt of its validity. The Seventh Circuit has a similar rule. In the Eighth Circuit, petitions are regularly passed on by two judges. A staff law clerk has recently been appointed, with an office at the headquarters of the court, part of whose duties will be to screen prisoner petitions before they go to the two-judge panel. A careful screening of the petitions by a staff law clerk before submission to an "administrative judge" or motions judge such as is now possible in those circuits having staff law clerks provides an additional safeguard, where the rules or the local practice provide that one judge shall have the authority, for the court, to dismiss or refer to a panel.

The circuit clerks

The clerks of the United States Courts of Appeals have always been officers of high caliber and devotion to duty. I was impressed that this standard is being maintained. But I was also concerned to find that in eight or nine circuits, they were hard pressed and were in need of additional staff. I did not consider it a part of my duty to make a survey of the clerks' offices, but I know that in a number of offices it has been impossible for the Administrative Office to provide enough deputies to keep up with the great increase of the work since 1960. I recommend that a survey of the offices be made as soon as possible and that it include not only the needs of the offices for more personnel but also a review of their methods of doing business.

Prisoner correspondence and the procuring of records from the lower courts takes much of the clerk's time in a number of circuits, and in others the duplication of records or arrangement for duplication may be burdensome. A survey of the working of the office of the pro se law clerks, and their need for stenographic assistance, should be included.

A meeting of the circuit clerks was held in the Supreme Court building in Washington five or six years ago at the call of the former clerk of the Supreme Court, James R. Browning, now a circuit judge of the Ninth Circuit. This meeting which lasted about a week, went into the procedures in each circuit in minute detail and was tape recorded. I recommend that a similar meeting should be called by the Administrative Office, that its proceedings be recorded and that an edited and abridged transcript of the meeting be published.

Many of the clerks have developed time saving forms for use in answering prisoners' petitions, writing for lower court records, inquiring of counsel the time they desire for argument, and the like. I suggest the Administrative Office ask the clerks' offices for a copy of such forms in use in their offices with a view to supplying those which appear most useful.

Time of the judges not available for hearing and deciding cases

An inquiry of many judges convinced me that there is little time wasted by appellate judges or spent in non-judicial tasks. The Chief Judges all have heavy administrative duties on which they spend from one-third to one-half their time. Administration of the large courts takes more time than of the small courts. In a number of circuits the problems of the district judges take much of the time of the Chief Judge. Personal attention to these problems by the Chief Judge inevitably results in better relations between the Court of Appeals and the District Courts. The Circuit Conference involves a great deal of work for someone to do, and usually it is passed around to various judges in turn. The Chief Judge as a member of the Judicial Conference of the United States has home work to do and a certain amount of travel twice a year. As a member of Conference Committees, a very considerable amount of time may be involved. General supervision of the work of the clerk and his staff and personnel matters require additional time. He is a busy man with a heavy burden of responsibility, yet in spite of this a good share of the Chief Judges are able to carry a full load of court work. This requires night work and week-end work, but no Chief Judge to whom I talked complained of being over worked.

The associate judges to whom I talked appeared less burdened with activities not directly connected with their caseloads. Thirteen circuit judges are members of Judicial Conference Rules Committees and 31 judges are members of other Conference Commit-

[3] 52 American Bar Journal 742, 747 (August, 1966).

tees. One or two judges and one or two clerks teach a course in law school, three judges are on the council of the American Law Institute and some others are on committees of the American Bar Association or members of the councils of a section of the Association, like the Section of Judicial Administration.

Some Chief Judges, like Chief Judge Bazelon of the District of Columbia appoint separate members of their courts to be responsible for particular phases of the administrative work of the court, such as the clerk's office, and the follow up of delays in cases held under advisement. This has seemed to work well. Judge Sterry Waterman was President of the American Judicature Society and Chief Judge Lumbard is now on his second year as Chairman as a very important committee of the American Bar Association on Minimum Standards of Criminal Law Administration. These activities all appear to me to be broadening and helpful and come under the general heading of public service. It is only when they become of such a nature that they prevent a judge from doing his full duty to his court that they should be curtailed, and the judge himself must be the best judge of that.

One factor in the life of a circuit judge which uses up time and energy is the travel to the place of holding court. In a number of circuits this requires a judge to leave home as often as nine or ten times a year for a week or more. It can only be obviated by establishing a single place for holding court and by providing that all judges of the court shall reside at that place. It is my opinion that a great deal of strength is added to those courts where a substantial majority of the judges live at the seat of the court and sit there, but long custom has made it possible for circuit judges to maintain their residences in the state from which they are appointed, and it seems doubtful that a suggestion to change this, meritorious as it may seem from the standpoint of judicial administration, would seem to the Congress to be advisable.

Additional stenographic help for the courts

Some judges with whom I spoke were in need of additional stenographic help. Two of these judges who came to the bench from large offices felt that a lack of an adequate supporting staff was a reflection of a failure of Congress to appreciate the importance of judicial work. Another, who had been a member of Congress, stated that he was surprised when he became a judge to find that the judges were not furnished with the staff which they badly needed, and another pointed out that district judges, with a law clerk and a crier-law clerk were better taken care of than a circuit judge even if he was one of the fortunate few who had a messenger in addition to his law clerk, but whose pay was only two-thirds of that of a crier-law clerk. The arrangements for additional or emergency stenographic personnel should be made where necessary at the request of the Chief Judge, and the problem can be solved provided that Congress is made to understand the problems of the courts and is willing to provide them with adequate help.

The judges, themselves, who are feeling these shortages, realize the need for finding ways of cutting down their paper work, and the Administrative Office, at the request of Judge Friendly of the Second Circuit, is printing as an experiment, two copies of forms of orders with reference to motions, copies of which are attached, marked Exhibit C–(1) and (2) which require only a check mark and the judge's signature. The orders are printed with interleaved carbons so will require a minimum of secretarial time. A number of other time saving forms can be devised, and this should be done by the Administrative Office on suggestion of circuit judges, even though it may be advisable to have these forms printed or duplicated locally.

Three-judge courts

The number of three-judge courts has been increasing sharply. In 1966, there were 15 more cases heard by three-judge courts than in 1965. In the last three years, the numbers have increased from 119 to 162. The increases in 1966 were in ICC cases which went up from 60 to 72 and in reapportionment cases, which rose from 17 to 28. The following table shows the cases heard in 1966 by circuit and by type of case:

3-JUDGE COURT CASES HEARD DURING THE FISCAL YEAR 1966, BY CIRCUIT AND NATURE OF SUIT

Circuit	Total	Review of ICC orders	Civil rights	Suits involving State or local laws or regulations	
				Reapportionment	Other actions
Total	162	72	40	28	22
District of Columbia	3	2	1	------	------
1st	6	4	------	------	2
2d	12	4	4	1	3
3d	5	3	------	2	------
4th	14	4	5	4	1
5th	45	15	21	4	5
6th	17	8	4	3	2
7th	8	3	------	3	2
8th	19	12	1	5	1
9th	16	10	1	3	2
10th	17	7	3	3	4

A number of judges spoke to me of the interruptions which these cases caused them, and the considerable amount of work involved in them. Often the circuit judge is the one who writes the opinion of the court. Several times it was suggested to me that it would be advisable to amend the statute to provide that ICC cases should not be included in the cases over which a three-judge court is given jurisdiction. I recommend that the subject be called to the attention of the Judicial Conference Committee on Revision of the Laws, in view of the opinion expressed that this would be of some assistance in lightening the burden of the courts of appeals.

The printing of opinions of the courts of appeals

In every circuit but the Tenth, the opinions of the court of appeals are printed, distributed to a certain official list, without cost and other copies are sold in accordance with a schedule of prices fixed by the court. In the Tenth, the secretaries of the judges stencil the opinions and have their own mimeograph machines on which they run the stencils. Duplication by the clerk has been tried in one or more circuits and offset printing has been suggested. I am informed that the cost of printing the opinions of the courts of appeals last year was $138,000, but I have no information as to how much money was received from the sale of opinions. I recommend the subject as one for further investigation in connection with the proposed comprehensive study of the offices of the clerks which I am suggesting.

Effect of increase of district judgeships on appeals docketed

Table S–6 showing the number of circuit and district judgeships, number of trials and number of appeals, for each circuit is attached to the report on each circuit in Part II of this report, and a similar table for all circuits is attached to Part I. This covers the period from 1961 to 1966 and shows the effect of the 63 district judgeships, two of which were temporary, which were created by the Act of May 19, 1961. Total trials in all circuits in 1961, before the new judges began serving, were 9,594 and increased year by year to 12,193, in 1966, 27 percent. The increase in trials was roughly equivalent to the 25 percent increase in district judgeships. In the same period civil trials increased 26 percent and criminal trials 28 percent. Meanwhile, civil appeals from the district courts to the courts of appeals increased 53 percent and criminal appeals, 115 percent. The evident conclusion is that although the creation of district judges results in a roughly similar increase in trials, and also in an increase in appeals, there are too many other factors involved in the increase in appeals to enable us to trace a definite relationship between them. The normal result of more trials is more appeals, and the creation of 35 more district judgeships in 1966 will tend to result in more trials, but other factors which have caused the large increase in appeals in the last five years were a more important factor in that result than the rise in the number of trials. About all that can be stated definitely is that we can expect an increase in trials at least equivalent to the 11 percent increase in judgeships provided by the 1966 bill in the next few years and this will have a tendency to increase the number of appeals from the district courts.

Clerks' fees and court libraries

Two other subjects of importance should be mentioned. It would appear to be timely to examine carefully present fees in the courts of appeals, promulgated by the Judicial Conference of the United States. I have not done this.

Secondly, a survey of the court libraries and their personnel is in order. In many, perhaps most circuits, a member of the court has been appointed to give special thought to the content and management of the court library, and the advice of these judges should be sought. This subject as well as the libraries of the individual judges should have the advantage of a special study with the help of the Administrative Office, under the direction of the Special Committee, the appointment of which I am recommending below.

Recommendations

The architect of the Chicago World's Fair, the great Daniel H. Burnham, was asked how he dared present such an ambitious program for the exposition, and he replied: "Make no little plans. They have no power to stir men's hearts." It is time for big plans for the courts of appeals. We face an expanding economy, a rapidly growing population and increasing caseloads in the appellate courts. Our Chief Justice has sounded a call for a new approach. It is now the duty of our judges to realize we are in an era which demands a new outlook on our growing problems and new solutions to the handling of our court business. Primarily, this involves a consideration of the work of our courts as big business and a scientific study of improved methods of meeting the problems of the future. I recommend:

1. The creation by the Judicial Conference of a special committee of judges and lawyers for a study of improved methods of the administration of the courts of appeals, and to act as a policy planning board for them. It will not suffice to turn this study over to the Committees on Judicial Statistics and Court Administration, which already have a large scope and a full agenda. Its importance calls for the creation of a new committee, and the vital interest of the bar makes it advisable to include lawyers in its membership. A close liaison with the Committee of the American Bar Foundation now working on this subject can be established with representation on the Judicial Conference Committee from the ABA group. Appointment of a secretary, with stenographic assistance from the Administrative Office would be appropriate.

2. The appointment of two administrative assistants to the Chief Judge of the Circuit, one in the Second Circuit and one in the

Fifth. These circuits were selected because I believe they would furnish the best proving ground for the usefulness of such an office in the larger circuits, and because I found, in both of them, support for the idea. The salary should not exceed that of the clerk, and a secretary should be provided. The main function of such an official should be a careful analysis of the methods of court administration in the circuit, the development of improved methods of screening the cases, the study of ways of saving time of the judges for hearing and deciding cases, and, to the extent the Chief Judge desires, the assuming of some of the administrative burden now carried by him. In the Fifth Circuit, it could include a large part of the work of securing and arranging for the assignment of 25 or 30 "outside" judges who are being asked to sit on the court. To what extent the idea should be extended to other circuits will depend on how it works out in the Second and Fifth.

3. Cooperation with the American Law Institute in a study of a system of Optional Jurisdiction for the courts of appeals in certain areas. Chief Judge Hastings has recommended that it be tried out in appeals *from* negligence cases under the diversity jurisdiction.

4. The recommendation by the Judicial Conference of the creation of such additional judgeships in the courts of appeals as are found necessary by the Committees of Judicial Statistics and Court Administration at the present time and provision for a biennial review and report by these committees at the beginning of each Congress, of further needs.

5. A provision by the Congress of additional law clerks so that each circuit judge who desires two law clerks and can demonstrate his need can have them.

6. A survey of the offices of the clerks of the courts of appeals so that an adequate staff can be provided for them. It is evident that, at the present time, most of the clerks' offices are understaffed. The survey should include the method of operation of the offices, the saving of time by the use of forms, the duties of the clerk as to the motions calendar, and the organization and operation of the pro se law clerks' work, now generally under the supervision of the chief judge, the docketing of cases, the keeping of the miscellaneous records and other types of work done by the office.

Three thoughtful and provocative letters regarding the need for additional law clerks and other matters covered in this report, one from Judge John R. Brown of the Fifth Circuit, one from Judge Carl McGowan of the District of Columbia Circuit, and one from Judge Albert V. Bryan of the Fourth Circuit, are attached as Exhibits (1), (2) and (3) respectively.

In closing this report, which has grown to such large proportions, I must add one final word of appreciation to the people who have helped me: To Judge Johnsen and Judge Biggs, whose advice and counsel have been invaluable, to Director Olney, who appointed me and has given me complete cooperation, to Joe Spaniol, Chief of the Division of Procedural Studies and Statistics of the Administrative Office, whose constant assistance has been a major factor in my work, to Jim McCafferty, his assistant, to Helen Blake, Mr. Spaniol's able secretary, and her assistants, Noreen Wildman and Dorothy Epps. These girls have typed seventy odd statistical tables in addition to the too long text of the report. I am also indebted to Helen Brown, who supplied valuable information and to Phyllis Storey, who drew the charts, and in fact to all members of the Division and of the Administrative Office who helped in preparing and processing the report. This was done cheerfully and efficiently in addition to the regular and continuing work of the Office.

U.S. COURTS OF APPEALS

TABLE B-7.—NATURE OF SUIT OR OFFENSE OF APPEALS FROM THE U.S. DISTRICT COURTS FILED IN THE U.S. COURTS OF APPEALS DURING THE FISCAL YEAR ENDED JUNE 30, 1966

Nature of suit or offense	Total	Circuit										
		District of Columbia	1st	2d	3d	4th	5th	6th	7th	8th	9th	10th
Total cases	5,605	599	148	584	419	531	900	536	401	333	683	471
Total criminal cases	1,458	252	39	170	82	88	214	131	113	88	191	90
Total civil cases	4,147	347	109	414	337	443	686	405	288	245	492	381
U.S. cases	1,338	147	33	105	82	118	221	149	83	97	179	124
U.S. plaintiff	307	5	7	36	28	20	54	23	20	33	51	30
Negotiable instruments	8	1	--	--	1	--	2	1	--	--	2	1
Other contract actions	34	1	--	9	3	1	5	1	1	5	4	4
Condemnation of land	86	--	1	5	4	9	10	9	7	13	17	11
Other real property actions	22	--	1	1	2	1	2	1	2	1	10	1
Personal property tort actions	11	--	--	1	2	1	2	--	2	2	1	--
Civil rights	3	--	--	--	--	--	3	--	--	--	--	--
Interstate commerce	4	--	--	1	2	--	1	--	--	--	--	--
Fair Labor Standards Act	28	--	--	1	1	2	12	3	--	3	3	3
Labor Management Relations Act	10	--	--	--	2	--	2	2	--	1	3	--
Securities, commodities and exchanges	8	--	--	3	--	--	--	--	4	--	1	--
Tax suits	42	1	4	7	4	--	8	4	2	3	4	5
All other	51	2	1	8	7	6	7	2	2	5	6	5
U.S. defendant	1,031	142	26	69	54	98	167	126	63	64	128	94
Contract actions	58	16	5	8	3	4	7	3	2	2	6	2
Real property actions	25	5	1	--	--	1	2	1	--	1	10	4
Tort actions	130	6	6	12	5	12	27	5	8	4	43	2
Motions to vacate sentence	248	33	4	10	10	32	49	32	17	16	20	25
Habeas corpus	104	29	1	2	2	4	13	7	3	9	7	27
Other prisoner petitions	30	8	--	--	1	2	3	5	3	4	--	4
Patent	12	12	--	--	--	--	--	--	--	--	--	--
Social security laws	136	1	2	7	10	30	16	39	9	9	6	7
Tax suits	173	2	5	15	13	11	43	18	14	14	22	16
All other	115	30	2	15	10	2	7	16	7	5	14	7
Private cases	2,809	200	76	309	255	325	465	256	205	148	313	257
Federal question	1,666	35	46	189	135	256	272	158	126	58	240	151
Miller Act—subcontractors to United States	37	--	2	5	--	1	3	2	1	6	7	10
Other contract actions	46	1	2	16	3	4	9	--	2	--	7	2
Employers' Liability Act	22	--	1	4	2	3	1	3	5	1	1	1
Tort actions	119	1	4	18	28	6	33	6	1	3	19	--
Civil rights	186	1	3	11	13	15	66	13	28	4	24	8
Antitrust	61	1	2	8	5	3	8	3	3	4	8	10
Habeas corpus	668	--	9	44	30	188	82	77	17	7	113	101
Other prisoner petitions	44	--	2	--	5	21	3	4	1	--	4	4
Labor Management Relations Act	84	3	7	14	12	2	6	14	5	6	13	2
Labor Management Reporting and Disclosure Act	16	--	1	3	4	--	1	4	1	1	--	1
Railway Labor Act	49	20	--	2	2	--	10	4	2	5	2	2
Patent	113	4	2	9	10	4	9	8	37	12	16	2
Trademark	19	2	3	3	5	--	3	1	--	--	2	--
All other	202	2	8	52	16	9	38	19	17	9	24	8
Diversity of citizenship	939	--	30	120	95	69	192	98	79	90	60	106
Insurance	195	--	2	19	15	14	44	28	19	24	16	14
Other contract actions	260	--	9	43	19	12	49	25	23	17	25	38
Real property actions	47	--	1	1	1	9	8	5	3	4	4	11
Personal injury—Motor vehicle	184	--	4	19	14	15	42	23	17	24	6	20
Personal injury—Other negligence	213	--	13	34	42	18	46	15	9	18	8	10
Other tort actions	34	--	1	3	3	1	3	--	7	3	1	12
All other	6	--	--	1	1	--	--	2	1	--	--	1

U.S. COURTS OF APPEALS—Continued

TABLE B–7.—NATURE OF SUIT OR OFFENSE OF APPEALS FROM THE U.S. DISTRICT COURTS FILED IN THE U.S. COURTS OF APPEALS DURING THE FISCAL YEAR ENDED JUNE 30, 1966—Con.

Nature of suit or offense	Total	Circuit									
		District of Columbia	1st	2d	3d	4th	5th	6th	7th	8th	9th	10th
General local jurisdiction	204	165			25		1				13	
Contract actions	62	48			8		1				5	
Real property actions	35	28			7							
Tort actions	41	36			2						3	
Habeas corpus	12	12										
All other	54	41			8						5	
Total criminal cases	1,458	252	39	170	82	88	214	131	113	88	191	90
General offenses	1,219	245	32	144	67	54	142	96	112	70	175	82
Homicide, total	35	27			2	2				2		2
Murder, first degree	12	8			2					1		1
Other homicide	23	19				2				1		1
Robbery, total	176	84	3	6	6	4	8	15	16	5	20	9
Bank	94	5	3	6	6	4	8	12	16	5	20	9
Other robbery	82	79						3				
Assault	37	21	1	5	2	1			3	1	2	1
Burglary	50	35		1			4	2		5		3
Larceny and theft, total	78	8	3	18	6	4	7	6	8	4	11	3
Interstate shipment	34		2	13	2	3	1		5	4	4	
Transportation, etc., of stolen property	9		1	3	1		2		2			
Other	35	8		2	3	1	4	6	1		7	3
Embezzlement	16		4		2		1	1	4	2	1	1
Fraud, total	177	3	7	30	13	6	31	20	20	14	20	13
Income tax	41		1	11		3	10	3	5	2	5	1
Postal and interstate wire, radio, etc.	53			3	5	1	11	2	10	6	8	7
Other	83	3	6	16	8	2	10	15	5	6	7	5
Auto theft	122	11		3	4	20	28	6	5	11	15	19
Transportation of forged securities	39			2	6	2	8	7	3	3	4	4
Forgery	43	3		5	3	4	9	6	3	2	3	5
Counterfeiting	39		3	7	6	2	3	5	3	3	5	2
Sex offenses, total	34	16					5	4		1	6	2
Rape	19	16					1				1	1
White slave traffic	15						4	4		1	5	1
Other sex offenses												
Narcotics, total	246	22	6	56	1	2	23	12	30	8	78	8
Marihuana Tax Act	48	1	1	3			6	1	1	2	30	3
Other	198	21	5	53	1	2	17	11	29	6	48	5
Miscellaneous general offenses, total	127	15	5	11	16	7	15	12	17	9	10	10
Bribery	8		1	7								
Extortion, racketeering, and threats	15				1	1	1		5	1	2	4
Gambling, lottery	46	4	3	2	13	5	3	5		5	3	3
Kidnaping	5				1		1	1	1		1	
Perjury	11		1	1			3	3			2	1
Other	42	11		1	1	1	7	3	11	3	2	2
Special offenses	239	7	7	26	15	34	72	35	1	18	16	8
Immigration laws	2										2	
Liquor, internal revenue	74		4	1	2	21	22	19		1		4
Federal statutes, total	163	7	3	25	13	13	50	16	1	17	14	4
National defense laws	36	2		10	1	4	5	1		1	10	2
Other	127	5	3	15	12	9	45	15	1	16	4	2

TABLE S–1.—APPEALS FILED, TERMINATED, AND PENDING, FISCAL YEARS 1950 THROUGH 1966

Fiscal year	Number of judgeships	Filed	Terminated	Pending	Terminated after hearing or submission
1950	65	2,830	3,064	1,675	2,355
1951	65	2,982	2,829	1,828	2,136
1952	65	3,079	3,048	1,859	2,308
1953	65	3,226	3,043	[1] 1,845	2,436
1954	65	3,481	3,192	2,134	2,427
1955	68	3,695	3,654	2,175	2,809
1956	68	3,588	3,734	2,029	2,973
1957	68	3,701	3,687	2,043	2,709
1958	68	3,694	3,704	2,033	2,831
1959	68	3,754	3,753	2,034	2,705
1960	68	3,899	3,713	2,220	2,681
1961	68	4,204	4,049	2,375	2,806
1962	78	4,587	3,931	3,031	2,895
1963	78	5,039	4,613	3,457	3,172
1964	78	5,412	5,089	3,780	3,552
1965	78	6,221	5,226	4,775	3,546
1966	78	6,548	5,936	5,387	4,087

[1] Adjusted figure.

Note: Beginning in 1962, number of cases filed and terminated are reduced by cases disposed of by consolidation.

Additional judgeships are first counted in the fiscal year following the year of passage of the judgeship bill.

TABLE S–2.—CASES FILED PER JUDGESHIP AND MEDIAN TIME FROM FILING OF RECORD TO DISPOSITION

[From Tables B–1 and B–4]

Fiscal year	Number of judgeships*	Cases filed		Median time interval (in months) from filing of complete record to disposition
		Total	Per judgeship	
1950	65	2,830	44	7.1
1951	65	2,982	46	6.7
1952	65	3,079	47	7.3
1953	65	3,226	50	7.0
1954	65	3,481	54	7.1
1955	68	3,695	54	7.3
1956	68	3,588	53	7.4
1957	68	3,701	54	7.1
1958	68	3,694	54	7.0
1959	68	3,754	55	6.7
1960	68	3,899	57	6.8
1961	68	4,204	62	6.8
1962	78	4,587	59	7.1
1963	78	5,039	65	7.3
1964	78	5,412	69	7.4
1965	78	6,221	80	8.0
1966	78	6,548	84	8.3
1966 on basis of additional judgeships created in 1966	88		74	

*Three omnibus judgeship bills were passed during the period from 1950 to 1966. In each instance the bill was passed in the second half of the fiscal year. Therefore, the additional judgeships are first counted in the fiscal year following the year of passage of the bill.

Note: Beginning in 1962, number of cases filed per judgeship are reduced by subtracting cases disposed of by consolidation, before dividing by number of judgeships.

TABLE S-3.—TYPES OF CASES FILED, FISCAL YEARS 1950-66

Fiscal year	Total appeals	Appeals from district courts					Administrative appeals	Other
		Total	Criminal	U.S. civil	Private civil	Bankruptcy		
1950	2,830	2,252	308	708	1,114	122	485	93
1955	3,695	3,004	677	811	1,363	153	576	115
1960	3,899	3,077	623	788	1,534	132	737	85
1961	4,204	3,251	616	903	1,617	115	846	107
1962	4,587	3,490	731	1,016	1,612	131	968	129
1963	5,039	3,915	891	985	1,902	137	1,029	95
1964	5,412	4,433	959	1,188	2,069	217	827	152
1965	6,221	5,103	1,103	1,305	2,491	204	968	150
1966	6,548	5,324	1,322	1,262	2,582	158	1,084	140

Note: Beginning in 1962, the number of appeals on each line is reduced by the number disposed of by consolidation in the year. Consolidated cases were eliminated from the filings prior to 1962.

TABLE S-4.—TYPES OF CASES FILED PER JUDGESHIP FISCAL YEARS 1950 THROUGH 1966
[From table B-1]

Fiscal year	Number of judgeships	Cases filed per judgeship			
		Total appeals	Appeals from district courts	Administrative appeals	All other
1950	65	44	35	7	1
1955	68	54	44	8	2
1960	68	57	45	11	1
1961	68	62	48	12	2
1962	78	59	45	12	2
1963	78	65	50	13	1
1964	78	69	57	11	2
1965	78	80	65	12	2
1966	78	84	68	14	2

Note: Beginning in 1962, the number of cases in each column is reduced by the number disposed of by consolidation.

TABLE S-5.—PRISONER PETITIONS IN THE DISTRICT COURTS AND PRISONER PETITION APPEALS

Fiscal year	Prisoner petitions					
	District courts			Courts of appeals		
	Total	U.S. cases	Private	Total	U.S. cases	Private
1960	2,177	1,305	872	290	179	111
1961	2,609	1,589	1,020	315	209	106
1962	2,948	1,496	1,452	379	255	124
1963	4,254	1,630	2,624	568	279	289
1964	6,240	2,098	4,142	809	383	426
1965	7,888	2,559	5,329	1,027	422	605
1966	8,540	2,292	6,248	1,106	382	724

TABLE S-6.—TRIALS IN THE DISTRICT COURTS AND CIVIL AND CRIMINAL APPEALS TO THE COURT OF APPEALS, FISCAL YEARS 1961 THROUGH 1966

Fiscal year	Number of judgeships		Total trials	Total civil and criminal appeals filed	Civil trials	Civil appeals	Criminal trials	Criminal appeals
	Circuit	District						
1961	68	245	9,594	3,136	6,156	2,520	3,438	616
1962	78	307	10,048	3,359	6,260	2,628	3,788	731
1963	78	307	10,960	3,778	7,095	2,887	3,865	891
1964	78	307	11,079	4,216	7,155	3,257	3,924	959
1965	78	306	11,485	4,899	7,613	3,796	3,872	1,103
1966	78	306	12,193	5,166	7,783	3,844	4,410	1,322
Percent increase [1]	15	25	27	65	26	53	28	115

[1] From 1961 through 1966.

Note: Beginning with 1962 the number of appeals in each year under each category have been reduced by the number disposed of by consolidation.

EXHIBIT A

U.S. GOVERNMENT MEMORANDUM

DECEMBER 21, 1966.

To: Will Shafroth, Consultant.

From: Carl H. Imlay, Administrative Attorney.

Reference is made to our recent conversation concerning a flood of new regulatory statutes which call for judicial review or enforcement. It would take considerable time to compile an accurate list of these since in many cases it is necessary to check cross references to older statutes to find such provisions. Some examples of very recent statutes containing either judicial review or enforcement provisions are:

1. Sections 701–706 of Title 5 as amended by P.L. 89–554 (judicial review of agency action).

2. Federal Water Pollution Control Act Amendments and Clean Rivers Restoration Act of 1966, P.L. 89–755 (civil and criminal sanctions).

3. Fair Packaging and Labeling Act, P.L. 89–755 (Section 6 provides for judicial review in courts of appeals of regulations promulgated by Secretary; Sec. 7 provides for enforcement).

4. Small Business Investment Act of 1966, P.L. 89–779 (Sec. 313(f) review of removal or suspension order by Court of Appeals; Sec. 314–316, criminal and civil penalties, suits to enforce or enjoin).

5. Research or Experimentation—Cats and Dogs, P.L. 89–544 (Sec. 19 and 20, review of order of Secretary of Agriculture in district court, civil penalty).

6. Oil Pollution of the Sea, P.L. 89–551 (criminal sanctions).

7. Traffic Safety Act P.L. 89–563 (Sec. 105, review in court of appeals; Sec. 109, civil penalties; Sec. 110, injunctive relief in district courts; other civil and criminal penalties provided in subsequent sections).

8. Mines Safety Act, P.L. 89–577 (Sec. 12, Judicial Review in Court of Appeals, Sec. 14, civil actions for preventative relief, criminal penalty).

9. Public Lands—Canals—Compensation, P.L. 89–624 (Sec. 2 extends condemnation jurisdiction of district courts).

10. Atomic Energy—Extraordinary Nuclear Occurrences, P.L. 89–645 (Enforcement proceedings in district courts, removal of cases from State and Federal courts on motion).

11. Fish and Wildlife—Conservation, P.L. 89–669 (Sec. 4(c) and (e), criminal sanctions).

12. Department of Transportation Act, P.L. 89–670 (Sec. 4(c), judicial review).

13. Financial Institutions Supervisory Act of 1966, P.L. 89–695 (Sec. 101(d)(3)(c), injunction by district court to enforce temporary cease and desist order; Sec. 101(d)(4)(E), application to district court for stay of suspension of officer; director, etc.; Sec. 101(d)(6)(A), action in district court for order requiring the Board (Fed. Home Loan Bank Board) to remove a conservator or receiver, which proceedings "shall be given precedence over cases pending in such courts . . .."; Sec. 101(d)(7), review of certain orders by courts of appeals, Sec. 101(d)(8) and (9) for enforcement of orders and process to district courts), and other applications to district courts to enjoin enforcement or to enforce administrative orders, and to issue and enforce subpoenas, etc.

14. Fur Seal Act of 1966, P.L. 89–702, (Sec. 402, seizures and forfeitures in admiralty, criminal sanctions).

15. Vessels—Financial Responsibility, P.L. 89–777 (civil penalties).

EXHIBIT B(1)

SECOND CIRCUIT DECISIONS OCT. 1, 1965, TO SEPT. 30, 1966
[By written opinion or summary disposition in court]

	Cases	Average time in days, hearing to decision
Decided in banc	9	[1] 154
Decided by:		
Signed opinions	261	75
Per curiam (excluding 10 cases announced from bench)	105	[2] 26
Summary dispositions (including 10 cases where per curiam opinions were also filed)	63	0
Total	438	---

[1] From date of in banc order.

[2] Excluding NLRB v. General Electric, where elapse of 364 days from date of first motion was due to special reasons.

EXHIBIT B(2)

ANALYSIS OF CASES DECIDED SUMMARILY OCT. 1, 1965, to SEPT. 30, 1966

[The following table breaks down the 63 appeals decided from the bench, with or without opinion, by the subject matter of appeals.]

Subject matter	Number of cases	Percentage
Criminal	32	50.7
Appeals from conviction	22	34.9
Narcotics	9	14.3
Robbery and theft	4	6.3
Other	9	14.3
Postconviction relief	10	15.9
Habeas corpus	8	12.7
Section 2255	2	3.2
Civil	31	49.1
Admiralty	6	9.5
Diversity	5	7.9
Federal regulation	5	7.9
Bankruptcy	4	6.3
Tort litigation under FELA and other Federal statutes	4	6.3
Tax	3	4.8
Deportation	2	3.2
Arbitration	1	1.6
Copyright	1	1.6
Total	63	100.0

EXHIBIT C–1

U.S. COURT OF APPEALS, SECOND CIRCUIT

At a Stated Term of the United Court of Appeals, in and for the Second Circuit, held at the United States Court House, in the City of New York, on the _____ day of _____, one thousand nine hundred and _____.

A motion having been made herein by relator pro se for a certificate of probable cause, for leave to proceed in forma pauperis, for transcription of the minutes at the expense of the United States, for the assignment of counsel and for

Upon consideration thereof, it is Ordered that said motion be and it hereby is

_____ _____,
_____ _____,
_____ _____,
Circuit Judges.

EXHIBIT C–2

U.S. COURT OF APPEALS, SECOND CIRCUIT

At a Stated Term of the United States Court of Appeals, in and for the Second Circuit, held at the United States Court House, in the City of New York, on the _____ day of _____, one thousand nine hundred and _____.

It is hereby ordered that the motion made herein by counsel for the appellant appellee petitioner respondent by notice of motion dated _____ be and it hereby is granted denied _____.

It is further ordered that _____.

_____ _____,
_____ _____,
_____ _____,
Circuit Judges.

EXHIBIT 1

U.S. COURT OF APPEALS,
FIFTH JUDICIAL CIRCUIT,
December 21, 1966.

Hon. JOSEPH D. TYDINGS,
Chairman, Subcommittee on Improvements in Judicial Machinery, U.S. Senate, Washington, D.C.

MY DEAR SENATOR TYDINGS: My delay in answering your letter of November 3 concerning two law clerks for each active Circuit Judge is in no sense due to my disinterest in that subject. I have purposely taken this time to make certain that my reply reflect my very considered views.

For the reasons which I indicate, I am in wholehearted agreement with the position you have taken and which you summarize so well in your letter: "Circuit Judges can make good use of additional law clerks." Indeed, I had read with enthusiasm your extended discussion of this on the floor of the Senate. I am hopeful that you and others will meet with success. We definitely need them.

You and others—including the Chief Justice in his annual reports to the American Law Institute—have forcibly sounded the note that we must find ways to make the Judges more productive. This problem is faced now. It is faced for the immediate future. And more important, it is faced as the long-short range problem of the next ten to twenty-five years. Although I am on a Court—now the largest constitutional Court in the country—which has received four additional new but "temporary" Judges for which we are all grateful, I definitely believe that we cannot count on merely adding more and more Judges. But with an ever-expanding population that soon reaches almost astronomical heights in contrast to that of 1950, if more Judges is not the answer, then we have two principal ways to turn. The one is to reduce markedly jurisdiction. This is hardly an answer at a time when each session of the Congress produces more and more federal regulatory legislation with both civil and criminal sanctions. The second is to make the Judges more efficient in the creative work of judging.

It is in this second—and the only real—solution that law clerks cut such a big figure. From my experience the past 2½ years with the so-called messengers furnished to some of our Judges on an emergency basis, I know a Judge can turn out more and better work with added competent, professional staff. My experience with the messenger, who for me has been a mid-year law student serving for two years, convinces me that I can do added work if I were to have two regularly assigned, full-time, graduate law clerks with the scholarly capabilities of the one now permitted by statute.

It is difficult to estimate in terms of the number of opinions or the added days or weeks of court sittings that would result from the second full-time law clerk. I am, however, convinced from my own rich experience of nearly twelve years that it would be substantial. I would reckon it in the neighborhood of 20 to 25 per cent. But even if this figure turned out to be over optimistic, I am positive that just to keep even, it is necessary to have more than one full time law clerk.

I have had an interesting experience in this connection which I think has been shared by many others. During my first year on the bench (1955–1956), I wrote in the neighborhood of 75 full scale opinions with only a few per curiams. More than that, I sat for the equivalent of 2½ weeks more than I have been able to do each of the last three years. In contrast to this, the last three years I have written fewer and fewer full dress opinions (approximately 30 to 40) with a great many more per curiams and have sat 10 to 15 days less.

Unfortunately, I have been falling farther and farther behind. Each year I have found it necessary to carry over one to three opinions into the second year. And, at the same time, I have worked harder than at any time in my whole adult life either on or off the bench. I am sure one explanation for this is that more and more we are having to deal—as we certainly should—with the current critical, highly complex problems of federal law, constitutional and statutory. We write fewer opinions. We sit for fewer weeks. We hear fewer cases. But the cases become more and more difficult, more and more important. We work harder, but statistically we turn out less.

What happens as this occurs? We can drop farther and farther back. We can keep abreast through more hurried and therefore inferior opinions or can run the risk of overusing per curiam opinions. This is a valuable tool, if properly used, which disposes of the individual case. But since it leaves no marks as a precedent in the continuous growth of the law, we must take care that per curiams are not used where a full opinion is really called for. All in all, just to hold our head up, we need added professional assistance.

This in no sense delegates the delicate, highly judge-centered judicial responsibility to a young lawyer holding a temporary position. On the contrary, these young lawyers, just as their counterparts do in a modern well-run, efficient law office, are capable of doing so much of the groundwork to enable the Judge to bring to bear his accumulated wisdom and experience in the creative function of judging. They are used for research since more and more we find briefs of counsel inadequate. They are used in a thorough canvass and checking of the record to help the Judge be certain that he is accurate. And, more important, to me at least, they perform a vital function in the preliminary drafting of substantial segments of a proposed opinion. As with brief-writing and most other legal composition, the task is the painstaking one of accurately setting forth the factual setting, the contentions of the parties, the legal theories pro and con. On most opinion-writing, this is the time-consuming factor. The judgmental—or what I like to call the creative part of adjudication and which under our system must be reserved for the Judge or Judges alone—takes much less, both in terms of time and in terms of the volume of writing. With skilled young law clerks drafting the basic ingredients of a proposed opinion, the Judge can work almost simultaneously on a number of matters. He can increase his efficiency. He can increase his output. And he certainly increases the quality of it.

Added law clerks will serve another and much needed function. With this increased volume of appealed cases reflecting a like growth in activity in the trial courts and administrative agencies, we see, unfortunately, more and more cases of practically no merit. The trouble, however, is that in a system that accords an appeal as a matter of right, this does not come to light as soon as it should. Much of this is due to the fact that we have not had an adequate opportunity to study in advance the intrinsic merits of the cases. With added law clerks, a closer pre-submission study could be made. Through the objective reading of the briefs and the careful preparation of objective pre-argument memoranda with the aid of law clerks, the Court will be able, either by changes in rules or practices, to make a pre-submission judicial appraisal of the case to determine whether, and to what extent, oral argument is warranted. Additionally, it will enable the Court to dispose summarily of cases immediately upon submission—a practice which is followed more in some Circuits than in others, and which is certainly one to be considered for the future.

I have the very firm conviction, therefore, that two law clerks are needed and needed now. Based on my own experience in this Circuit, I am convinced also that they should be available to every active Circuit Judge in all of the Circuits. The most recent statistics from the Administrative Office are very revealing. After taking into account the new judgeships afforded under the Omnibus Judgeship Bill (and also the four to the Fifth Circuit), the average caseload per Judge for 3 out of the 11 Circuits is already higher than it was when the Fifth Circuit, some years ago, began to feel the overpowering impact of the ever-growing docket. (See schedule 1 attached.) Moreover, for the two or so Circuits in which the present burden does not approach that point, those Judges could effectively use added law clerks to enable them to offer their assistance to other Circuits as visiting Judges. Our own experience illustrates the continuing necessity for this. Despite the allowance of 13 active Judges (12 now appointed and qualified) and three Senior Judges, we have found it necessary for the current year (1966–1967) to obtain the services of 20 visiting Judges (Senior and active Circuit Judges from without the Fifth Circuit and District Judges within the Fifth Circuit). And this is merely to break even, and will make no substantial inroad on the backlog that has accumulated. It is clear that for the immediate years ahead, we will need similar visiting Judge help.

The more we lift our sights above the immediate present to that of the short-range future and the short-long range future of 10 to 25 years, the more pressing the need for additional professional staff becomes. As you are so acutely aware from the Annual Report of the Director, Administrative Office of the United States Courts (1966), the caseload since 1957 has grown from 3700 filings for 68 Judges (an average of 54 per Judge) to a total of 7183 in 1966 for just 20 more Judges (88) to make an average load of 81 cases per Judge (P. II–1). In less than six years I have seen our filings jump from 582 (year 1959–1960) to 1093 (year 1965–1966). And we know this is not the end. Within the past two years, there has been a 40% increase in the number of criminal appeals. Undoubtedly much of this is due to the Criminal Justice Act. All are aware, too, of the acute increase in habeas corpus and § 2255 matters in the District Courts with the inevitable appeal. Against a total of a few hundred with the advent of *Gideon* these grew in 1960 to approximately 2,000. And this past year saw a total of 7,693 (P. II–34). Since many of these are filed without counsel and the appeal is "free" in the sense that it can be done without any real cost, there is almost invariablly an effort to appeal. Whether the effort succeeds or gets beyond the application for a certificate of probable cause or allowance of appeal in forma pauperis, requests for appointment of appellate counsel, etc., each of the cases occupies the judicial time of the Court at least once and oftentimes three or four times.

But the problem doesn't end here. We know that it is bound to get worse. Against a population of 150 million in 1950 and a present population in excess of 194 million,

the conservative estimates of reputable agencies, such as the Population Reference Bureau, working with official figures of the Census Bureau, demonstrate that our population is expanding markedly. In less than 20 years (1985), the increase over today will be in the neighborhood of 144 million making a nationwide population of 266 million. In the rapidly growing sections of the West and the Southwest, the rate will be even more spectacular. Texas with approximately 10 million now will have 14.7 million, an increase of nearly one-third. California with some 17 million now will have close to 35 million. What this could mean is readily illustrated. This past year Texas cases (285) comprised 26% of the filings. An increase of ⅓ would send the filings up another 95 per year without regard to the other states including Florida with its spectacular growth. Nor does this take into account the certainty that within 18 to 24 months, the recently added 14 District Judgeships will generate an almost proportional increase in our current business. California indicates other related problems. A population of 35 million would roughly equal that of the present population of the six states of the 5th Circuit (29.6 million) plus, say Michigan (8 million). Considering that the 5th Circuit now has 13 Circuit Judges authorized and 59 District Judgeships including 14 under the Omnibus Bill, the active Federal judicial establishment to service a single state (California) will exceed 72 Judges. Will there be a Court of Appeals for California? Two Courts of Appeals for California? And what of other growth areas?

Granted that this is not the immediate problem upon which you have sought out views, it seems to me that now is the time that the nation should be concerned as to the shape and nature of the judicial establishment needed to serve this society—a society having inevitable, predictable increase in business which means increase in law business, and hence judicial business. Will not the structure be top-heavy if the sole solution is thought to be more and more Judges and a proliferation of more and more courts? Faced as we are with a present situation that demands more than our resources can presently meet with quality, I think that the minimum we should plan for and do is to gain the practical benefit of the opportunity to experiment with various ways to make the Judge more and more productive. Law clerks, added law clerks, offer a tangible opportunity for that sort of learning by experience.

There are several examples of such experimentation. One is the use in selected Districts of staff pre-trial Examiners. Another, in our own Court, is the use of staff law clerks assigned to the Court. A few years back we were allocated on a temporary basis an additional position to be filled by one doing the work of a staff law clerk. Within the past year we have had a second temporary such position. These staff law clerks are attached to the Court as a whole and devote practically all of their time to assisting the Judges in connection with appeals from state habeas corpus cases and federal 2255's and similar proceedings. Had we not had these staff law clerks, it is certain that we could not have stayed abreast of this increasing docket, or, perhaps more accurately, giving them the statutory priority required, the remainder of the Court's docket would have been further delayed.

I have written at this great length for several reasons. First, as you will recall from our conversations both during and before the May 1966 Judicial Conference of the Fifth Circuit at San Antonio, where we were honored to have you on our program, I am concerned about the inevitable increase of judicial business as the population and the business of that population expands. To this I now have a direct personal but official responsibility. Next July (1967) it will fall to my lot to succeed Chief Judge Elbert Tuttle. I am therefore immediately concerned with our Judges having adequate tools with which to do a creditable but constantly increasing job.

The awareness of you and your Committee to these pressing problems and your determination to find solutions is heartening to the Judges.

Sincerely yours,

JOHN R. BROWN.

SCHEDULE 1

AVERAGE CASES PER CIRCUIT JUDGE

Circuit	Total filings	Number of judges	Average per judge
District of Columbia	797	9	88
1st	199	3	66
2d	876	9	97
3d	559	8	69
4th	612	[1]7	87
5th	1,093	[2]13	84
6th	651	[1]8	81
7th	545	[1]8	68
8th	403	[1]8	50
9th	877	9	97
10th	571	6	99

[1] Omnibus bill.
[2] 4 temporary.

Note: Based on annual report of the Director (1966), Administrative Office of the U.S. Courts, p. II–3, table B–1.

EXHIBIT 2

U.S. COURT OF APPEALS,
Washington, D.C., July 15, 1966.

PAUL D. CARRINGTON, Esq.
The University of Michigan Law School, Ann Arbor, Mich.

MY DEAR PROFESSOR CARRINGTON: My failure to write you before now does not mean that I have been uninterested in the communications which you have heretofore sent to the advisory committee. I look forward to seeing you in Montreal, although I am afraid that our meeting in the frenetic atmosphere of the impending ABA Convention will limit our opportunities for extended discussion. In my own case, for example, I am (or hope I am) assured of a hotel room only for Wednesday evening, and must, in order to get to my next shelter, take the 3:15 plane on Thursday for Boston. Since the meeting is now rescheduled to start at eleven, my own participation in it will necessarily be limited. If there are others arriving the evening before, as am I, we might have at least some informal discussions before eleven o'clock. Even that, however, is not too satisfactory a mode of proceeding and, accordingly, I have thought it desirable to write to you some of my thoughts on the problems we confront. This should save time in the meeting itself, and it is for this reason that I am inflicting copies of this letter upon the other members of the committee.

I do not stop to emphasize the seriousness of the problem, although the nature of my work may make it more immediately visible to me than to some of the others on the committee. In our circuit, for example, the new cases filed during the fiscal year just ended were just over 800—a 15 percent increase over the prior year. All of the fuss down in the Fifth Circuit started when they were approaching 1,000; and, if our district court steps up the disposition of its backlog, we could easily have that number of cases filed in our court during the fiscal year just starting, as could some of the other circuits. This latter figure would mean an average of 125 cases per active judge, as compared with the 80 which Professor Wright in his article about the Fifth Circuit believed to be the maximum bearable load.

These figures appear certain to get worse rather than better, and in all circuits. Accordingly, no idea, however bizarre, is to be excluded from consideration. I firmly believe that if we could now see how we will be handling cases ten years from now—and possibly even five—we would not believe our eyes. This means that both the bench and the bar must inevitably accept some startling transformations in the old ways of doing things. The question essentially is: How may those transformations be effected with the least adverse impact on the process of deciding the important law suits in a careful and responsible way?

I do not think that much relief is to be anticipated from restrictions upon the jurisdiction of the District Courts. Laying aside the question of whether that is a desirable way of tackling the problems of the Courts of Appeals, I see no reason to think that there will shortly be any large scale relinquishment by the federal courts of the jurisdiction they now possess. What Congress may take away will doubtlessly be matched roughly by what Congress and the Supreme Court add—and always the population grows.

We in the District of Columbia are perhaps in a somewhat different situation in this matter of allocation of jurisdiction. Our Judicial Council has recently appointed an excellent committee under the chairmanship of Gerhard Gesell, of the District of Columbia Bar, to examine all aspects of the judicial system of the District of Columbia. There is a growing feeling that the time may have come to take a further step in the so-called federalization of the United States Courts in the District of Columbia, and the concomitant entrusting of a larger number of matters to the D.C. Court of General Sessions, from which appeals go to the D.C. Court of Appeals, over which latter court we presently have a certiorari-like discretionary review. There is no reason, for example, why D.C. Code crimes such as housebreaking and robbery should have to be tried in the U.S. District Court with an appeal to the U.S. Court of Appeals for the District of Columbia Circuit. If this criminal jurisdiction alone were transferred to an enlarged and strengthened D.C. Court of General Sessions, our immediate problem would be materially eased. It might even mean that we could take some of the pressure off of the other circuits by handling more agency review cases and other litigations involving the federal government. We presently have exclusive review jurisdiction over the highly important radio and television licensing functions of the Federal Communications Commission; and it may be that, short of adopting the expedient of the administrative court which some propose, review of at least some other agencies could appropriately be committed solely or largely to us.

The work of our local committee has obvious relevance to the ABA Foundation inquiry, and you will presumably wish at some point to be in touch with Mr. Gesell about what his committee is doing. I have informed him of the Foundation project.

Absent any significant reduction in the scope of the jurisdiction of the federal courts, the load must be handled somehow. The problem is one of how to bring the greatest number of judicial man-hours to bear upon the cases flooding in to be disposed of. Although the Fifth Circuit controversy occurred against a special back drop which distorts some of the generalizations about it, there remains apparently a considerable division of opinion between those who think the only answer for the circuits generally is more judges (which may or may not include some rearrangement and enlargement of the number of circuits), and those who shrink from the progressive enlargement of the Courts of Appeals in point of numbers and their fragmentation in terms of area. I do not myself have any firm feelings as yet on this question. There is certainly no magic about the number "nine," and I detect a certain amount of *amour propre* involved in the feeling of some judges that their status is somehow cheapened by addi-

tions to their ranks. On the other hand, my own experience thus far with *en banc* hearings does not encourage me to believe that a larger bench will contribute to expeditious handling. I do know that, if the answer is not to be more judges, then there will have to be serious and substantial innovations in the present way of doing things. But before I get into that, I would like to say a word about things which could be done to increase judicial manpower short of resolution of the major question of the necessity for more judges.

There are two or three matters which may perhaps be thought to lie outside the proper range of our inquiry, but it seems to me that we can and should take cognizance of anything which bears upon the problem committed to our charge. I have also a certain reluctance to speculate about new and untried expedients when there are some obvious things readily at hand. The first of these is the question of supporting personnel. When a practicing lawyer gets too busy, his firm provides him with additional help. This is something which, in my judgment, should be done immediately in the case of the Courts of Appeals. When I first came on the court, I was certain that I would have no need for a second law clerk. Beginning next month I will, for the first time, have two law clerks, although one of them (the editor-in-chief of the law review at one of our leading law schools) will be classified as a messenger and will be paid just half the salary of the other one. It is only because this boy is so situated that he can afford this sacrifice that I am able to have this second law clerk. I cannot be sure that in the year succeeding I will be so fortunate; and, in any event, the arrangement is grossly unfair to him. I think that any circuit judge in the country should be authorized to have a second law clerk if he wants one. The amount of money involved is negligible, but the contribution made can be very great. I can get the opinions written myself if I can be sure that all the bases have been touched that should be. With the volume we now have, a second clerk is essential for this purpose.

A second need is for capable people to help with the administration of the court's work. A court like mine needs someone like the managing partner of a law firm to administer its work. This should be a lawyer who is paid a salary as high as any of the judges, and who can handle many of the matters which must now be committed to individual judges or subcommittees of the Judicial Council. I have, for example, spent many hours during the last year on the problems of the Criminal Justice Act. A court administrator of the kind I have in mind could have done all of this. This man could conceivably be the Clerk of the Court. But, in order to get the kind of talent I am talking about, the salary of the Clerk would have to be raised very greatly indeed, and he would have to be given additional resources so that he could run his office in an efficient manner. There is very much to be done in this field of improving the administrative services within the existing framework of the Courts of Appeals. And, if it is done right, there is a large potential of judicial manhours to be released for the primary job of hearing and deciding cases.

The most readily available source of judicial manpower is in the form of the senior judges. Our court at the moment is current in its work, despite the fact that it has been faced with a tremendous volume of cases. This has been done without the help of any outside judges, but it has been done because of the fact that we presently have four senior judges who have been continuing to do some work. The proportions of the avalanche of litigation we face are such that the time has perhaps come to face up to the problem of compulsory retirement. There is, of course, an ABA committee concerned with the creation of machinery by which incompetent and incapacitated judges can be forced out. Most would agree, however, that the major aspects of this problem would be solved if retirement were compulsory. In any event, compulsory retirement should be looked upon as a means of adding to judicial manpower, and not as simply a means of eliminating the unfit. The more healthy and vigorous a man is when he attains retirement qualifications, the bigger contribution he can make to the volume problem by retirement right at that point.

That contribution would largely be assured if the law were that whenever a man is qualified to retire, his retirement is automatic. It would also appear desirable to add a new category of retirement qualifications in the form of a provision that anyone who has served fifteen or twenty years should be eligible for retirement whatever his age. Most judges who retire—and this is particularly true of the younger and more vigorous—will wish to continue to perform judicial services. Compulsory retirement can be more appealingly justified for the affirmative reason of utilizing the services of the retired judges in handling the volume problem than it can for the negative reason of getting rid of those who refuse to recognize their alleged incapacitation. The Supreme Court can, of course, logically be excepted under this approach, as compulsory retirement there means no addition to the manpower resources available for the dispatch of the Court's business. The sentiment within the judiciary for this kind of compulsory retirement is, I suspect, steadily growing under the impact of the volume problem. In short, it seems timely to me to reexamine our existing scheme of retirement and to redesign it with the objective of producing the maximum amount of judicial manpower.

The matter of judicial manpower cannot honestly be discussed without some mention of the wastage inherent in the present tradition of appointments. Our court is a busy one, and we need every bit of help we can get. Yet there is a vacancy which has gone unfilled for eight months, and the end is not yet. This is not an isolated instance, as we all know; and it occurs in an area where the usual pains of trying to recruit good men for the public service are at a minimum. It is hard to convince the lay public that there is any crisis necessitating new positions when so many man-hours are lost in respect of the existing jobs, both by delay in Presidential action and in Senate consideration. I know all the practical arguments about the formidability of doing anything in this area, but it may well be that the litigation explosion is creating some stronger pressures for change in the system than we have yet realized. It is not too early to take thought as to how they may be exploited in the cause of a more efficient appointment tradition. And I have always been convinced that greater efficiency in this area will bring out better men.

The figures show that all of the circuits are getting busier, and this suggests that the time is fast approaching when help in the form of visiting judges from other circuits cannot be counted upon. The earlier enthusiasm for these assignments away is already waning under the impact of the load at home. One device to avoid increasing the members of particular courts would be to create a number of floating judgeships, subject to assignment by the Chief Justice to any court in the country which needs help. If fifteen or twenty posts of this character were created tomorrow, the Chief Justice could put them all to work to good purpose around the country. When the ill-fated Commerce Court was abolished in 1913, its members were, as I understand it, made floating federal judges for the rest of their lives; and it was in this capacity that Judge Julian Mack made a number of fine contributions to the functioning of the federal system in places as widely separated as New York and San Francisco. The judges I have in mind should perhaps be able to handle either trial or appellate court assignments; and this would serve the purpose of integrating our judicial system somewhat more on the British model, which I think is desirable in itself, and also of making these floating judges an elite corps which should attract the very best talent.

The problem remains of more judges per court versus something else. You have circulated with your letter of June 7 a suggestion with respect to a national panel which would serve in some degree as an adjunct to the Supreme Court. As I get it, your thought is that, by eliminating the need for *en banc* hearings to resolve intra-circuit conflicts, the major objection to adding more judges to each circuit would be met.

Assuming for the moment that more judgeships is the only answer, I am sympathetic to your suggestion for the reason that, as I have indicated above, I shudder somewhat at the prospect of *en banc* hearings with twelve or fifteen sitting judges. Our own experience in getting out decisions and opinions in our *en banc* cases discourages me from thinking that the situation would do other than deteriorate further if we had more judges sitting *en banc*. Thus, it would be very helpful if the *en banc* problem could be eliminated coincidentally with the acceptance of the necessity of the addition of more judges. My reservation about this proposal is that it would seem to encourage irresponsibility within the circuit in terms of going against the decisions of other panels. Your proposed national panel might well have a very great deal of work indeed with reference to intra-circuit conflicts. Professor Mishkin's suggestion that *en banc* authority be vested in the seven active judges with the greatest seniority is another way of meeting this same objection; and it leaves each court with the responsibility for making its law reasonably uniform. There are, of course, other difficulties with it, although these may more readily suggest themselves to a relatively junior judge like myself than to others.

I throw out the idea that another way of keeping the Courts of Appeals at their present levels while still imposing responsibility on each of them for some orderliness in its own dispositions would be to reduce the size of the panels that hear and decide the cases in the first instance. The impending prospect of overwhelming increases in volume suggests that we may have to go to one-man panels. This may seem like a very advanced suggestion at first blush but, as I watch the performance of my own court, I do not think it would work out too badly. A single judge could certainly control oral argument more effectively than three, and there is a rich mine of judicial man-hours to be tapped in this respect. Nine judges hearing appeals individually could handle a tremendous volume of cases. The shadow of the luck of the draw may be somewhat more ominous, but not too much more so than in the case of the present three-man panels which in our court change every day. We are now getting petitions for rehearing *en banc* in the great majority of our cases. Going to a one-man panel might well increase the number of these petitions, but the difference from what they are now would not be too great in absolute numbers even if they went to 100 per cent. The court as a whole would still have a string on the decisions, and where five members were outraged by the single judge's decision, the case could be put in *en banc*. This would unquestionably mean more *en banc* decisions, but the net gain would be very great. Needless to say, this approach would put a premium on high-quality appointments. But this would provide a real impetus to the bar's refusal to

tolerate a mediocre appointment—and we need more of that.

A variant of this approach would, of course, be to have two-man panels, with a third judge to be added in the event of disagreement. This would add considerably to our existing judicial manpower because a large number of cases would certainly be disposed of without the need of the intervention of a third judge.

The dangers of increasing volume are that all cases tend to be treated alike. If one stops long enough to give the important case the time and attention it deserves, he is promptly engulfed by the flood of unimportant cases pushing along behind it. The effort is, thus, simply to keep the whole stream moving along. I could argue that the Courts of Appeals should be having more *en bancs* rather than less, in order to consider and settle the really important issues. But they cannot do that if they are swamped in the hearing and decision of a whole host of other direct appeals on a docket over which they have no control. If we are not to have a lot more judges on our courts, then we must move emphatically in the direction of separating the chaff and treating each accordingly.

Sincerely,

CARL MCGOWAN.

EXHIBIT 3

ALEXANDRIA, VA.,
January 19, 1967.

WILL SHAFORTH, *Esq.,*
Administrative Office of the U.S. Courts of Washington

DEAR WILL SHAFORTH: In my talk with you and Mr. Spaniol I am afraid I ignored the beatitude of it is more blessed to give than to receive. Hoping for redemption, I submit a more formal expression of my thoughts.

1. I am opposed to the periodical request for enlargements of the Federal judiciary, trial and appellate, for I think it is a confession of incompetency in our own housekeeping. Every time the problem of congestion appears we rush to the legislature and executive departments for more judges. It is an undue subordination of the judiciary to those branches of government, and at the same time a dilution of the judiciary by the multiplication of judges. Pretty soon the other departments will take over our regulation for our manifestation of an inability or unwillingness to keep our house in working order.

2. To sustain my contention, I regularly advert to the Supreme Court for emulation. No matter its load, it does not call upon Congress for more judge-power. There is no answer in saying that the Court can control its load by winnowing the cases when awarding certiorari. The immediate rejoinder is that the courts of appeal may accomplish the same result, without denial of deserved hearings, by a just, preargument sifting of the appeals.

This will require, however, more personnel on the staff of the circuit judge, but in return a sharp financial economy may be achieved. Instead of many new judgeships, at a price of not less than $80,000 each per year, an additional law clerk, salaried from $7000 to $9000 annually, given to each of a large number of the circuit judges would provide the needed machinery at least for several years.

3. Statistics will disclose, as you know, that the dockets are cluttered with appeals, both civil and criminal, which have been noted just to be appealing. I do not propose that they be neglected. On the contrary, I urge they be studied along with all other cases filed for review, to put first causes first. Many appeals melt when the records are opened to the light of day. These could be exposed through a pre-argument reading by a qualified law clerk or two, with a final appraisal by their respective judges.

In the Fourth Circuit this laborious task is unselfishly assumed and conscientiously done by our Chief Judge, with the help of his law clerk and the Clerk of the Court. Thereafter his findings are submitted to two more circuit judges for confirmation or rejection. Even this limited canvass has had a noticeably favorable effect in the elimination of docket dross. Apart from relieving this unfair overtasking of the Chief Judge, alleviation of hearing-time in court could be augmented several fold if facilities for the work were furnished the other judges. Then it could be apportioned among the judges in pairs, subject always to an approval of each disposition by a full statutory panel of three judges.

An order of affirmance or a brief per curiam would suffice to give notice of the decision. A full-dress opinion is not justified in such instances, and the time thus saved could be devoted to deserving litigation.

4. Reviews of orders of Government agencies, such as the Social Security Administration, the National Labor Relations Board, and the Federal Trade Commission, could be expedited by the same means. Usually, decision there depends upon a close reading of the evidence and the facts found. A painstaking survey is called for, and accuracy requires there be a preliminary perusal of the record by the law clerk followed by a discussion with his judge. This done separately by two judges and their clerks would provide early resolution of controversies which because of their nature should be speeded.

5. Finally, in an effort to meet the increasing demands on the courts of appeal without adding judges, I advocate the greater use of orders or memoranda of affirmance, in lieu of detailed opinions in those cases found, after argument at the bar, to be (1) without merit or (2) to embrace nothing novel justifying a dissertation.

What I have said applies to civil as well as to criminal cases, and especially to the myriad habeas corpus petitions of State convicts. In fine, my hope is for the judiciary to respond to its responsibilities with promptness but without precipitateness, and to keep its Constitutional independence as one of the three great divisions of government.

Yours faithfully,

ALBERT V. BRYAN.

PENALTIES FOR CERTAIN ACTS OF VIOLENCE OR INTIMIDATION—AMENDMENTS

AMENDMENT NO. 290

Mr. EASTLAND submitted amendments, intended to be proposed by him, to the bill (H.R. 2516) to prescribe penalties for certain acts of violence or intimidation, and for other purposes, which were referred to the Committee on the Judiciary and ordered to be printed.

REVISION OF FEDERAL ELECTION LAWS—AMENDMENTS

AMENDMENT NO. 291

Mr. CLARK submitted amendments, intended to be proposed by him, to the bill (S. 1880) to revise the Federal election laws, and for other purposes, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 292

Mr. CLARK (for himself and Mr. SCOTT) submitted amendments, intended to be proposed by them, jointly, to Senate bill 1880, supra, which were ordered to lie on the table and to be printed.

ADDITIONAL COSPONSOR OF BILL

Mr. MORSE. Mr. President, I ask unanimous consent that, at its next printing, the name of my colleague from Oregon [Mr. HATFIELD] be added. This is my bill restricting the advertising of alcoholic beverages on radio and television between certain hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

HENRY J. KAISER—AN AMERICAN GIANT IS GONE

Mr. KUCHEL. Mr. President, the stunning death of Henry J. Kaiser, a foremost resident of my State and a truly towering figure of our century, is a grievous loss for the Nation and, indeed, for civilization.

The accomplishments, contributions, and benefactions of Henry J. Kaiser constitute an array of imperishable monuments. His efforts and influences will be visible to, and felt by, generations to come, not only in our country, but veritably around the globe.

Words are almost impossible to find which truly would describe the remarkable career—in truth, several separately distinguishable careers—of this imposing and conspicuously unselfish character.

From humble beginnings, Henry J. Kaiser was a unique constructor and builder, a tireless innovator, a versatile organizer, an inspired and ceaseless humanitarian, and a remarkable environment developer. He boldly pioneered in social and labor relations fields as he did in earthmoving, shipbuilding, industrial organization, and health care. His vision was endless, and his energy was characteristic of the powerhouses his firms erected.

The boundless confidence this awe-inspiring figure displayed in mankind will be an inspiration to all who associated with him or benefited from his imagination, his dynamic drive, and his compassion.

The passing of the modest, genial, determined being known affectionately to tremendous numbers as "H. J." or "Henry J." will be mourned in every stratum of society and throughout the world. An American giant is gone.

I ask unanimous consent that an article from the New York Times of this morning, entitled "Henry J. Kaiser Dead at 85; Built $2 Billion Industrial Giant," which delineates much of the illustrious career of this remarkable man, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HENRY J. KAISER IS DEAD AT 85; BUILT $2 BILLION INDUSTRIAL GIANT—HEAD OF MULTIFACETED EMPIRE STARTED HIS CAREER AT 13 IN DRY GOODS STORE

HONOLULU, August 24.—Henry J. Kaiser, the industrialist who built dams, ships, automobiles and hospitals, died in his sleep this morning at his home here. He was 85 years old.

Mr. Kaiser, who had been suffering from a circulatory ailment, became ill on a recent trip to the mainland. He returned to Honolulu on June 25.

At his side were his wife, Alyce, a nurse Mr.

Kaiser married after the death of his first wife in 1951, and his son Edgar Kaiser, and his wife.

A school dropout at the age of 13 who went on to become an industrial giant, Henry John Kaiser once declared in his blunt fashion: "Problems are only opportunities in work clothes."

No stranger to work clothes, a man who some said subsisted on three hours of sleep a night, Mr. Kaiser spent a rich, restless, widely diverse lifetime taking on problems and converting them into opportunities.

He built roads, pipelines, dams, factories, ships, cars, bridges, homes, resorts, hospitals and, ultimately, the many-faceted, billion-dollar Kaiser Industries Corporation.

The robust industrialist perpetually aimed high—and generally made it.

"I always have to dream up against the stars," he observed. "If I don't dream I'll make it, I won't even get close."

Mr. Kaiser habitually seemed to find a way to get close. He attained nationwide fame with his performance as a shipbuilder during World War II, then went on to build a giant industrial empire that included steel, cement, aluminum and, for a hectic period, automobiles.

He took on the latter through the Kaiser-Frazer Corporation, which failed. But he kept his hand in the business through the familiar Jeep, produced by Willys Motors, which became a Kaiser subsidiary, and through two South American auto-producing plants.

Constantly expanding, most recently in Hawaii real estate development, his businesses achieved annual sales of $1.8 billion and has assets of $2.4 billion.

Mr. Kaiser, one of four children of German immigrant parents, was born May 9, 1882, in Sprout Brook, N.Y. His business career began at 13, when he left school to help support his family. He took a $1.50-a-week job as a cash boy for a Utica, N.Y., dry goods store and supplemented his income by taking photographs after working hours.

He subsequently took to the road as a photographic salesman in upstate New York and, at the age of 22, became a junior partner in the photographic concern of Brownell & Kaiser at Lake Placid.

Within a year, having husbanded his resources, he purchased the business and hung out a billboard-size sign over his door reading "Meet the Man With a Smile."

OPENED OTHER STORES

He branched out, following free-spending vacationers to other resort areas, and opened stores in Daytona Beach and several other Florida cities as well as in Nassau in the Bahamas.

It was during this time that he met Miss Bessie Hannah Fosburgh of Norfolk, Va. Her guardian, a wealthy Virginia lumberman, objected to Mr. Kaiser's suit for her hand, feeling he was unable to provide adequate support. Mr. Kaiser promptly headed west, to Spokane, Wash., in 1906, to prove himself a worthy suitor.

There were no immediate jobs, but the industrious young Easterner pitched in as a helper in a large hardware store and shortly was taken on the payroll at $7 a week. Within a year he was made city sales manager. He returned east to marry Miss Fosburgh in April, 1907, and headed back to Spokane.

In 1912 he joined a construction company as a salesman and manager of paving contracts in Washington and British Columbia, getting his first taste of what was to become a career in building. "Find a need, and fill it," he once declared.

He established his first company, the Henry J. Kaiser Company, Ltd., in 1914 in Vancouver B.C., at the age of 32, borrowing money from a bank to buy secondhand equipment. His innate knack for improvisation and inventiveness quickly showed itself and the company prospered.

SEVENTY-FIVE THOUSAND MILES A YEAR

At one point needing water for a highway project near Seattle, he was reluctant to buy an expensive gasoline pump to obtain it. A stream near the project gave him an idea and in short order he anchored a barge in the stream, rigged it up with a paddlewheel from a river steamer and put the stream to work turning the wheel, which operated a pump.

"We don't need power," Mr. Kaiser told his foreman. "The Lord does it for us."

During the next dozen years the hustling, bustling young businessman—"There's only one time to do anything and that's today," he was fond of saying—concentrated on highway construction in the Pacific Northwest and in California, in addition to erecting several sand and gravel plants of his own and two earth-fill dams.

By 1921 his headquarters had been established in Oakland, Calif., which remained the center of his far-flung operations despite his own heavy personal travel schedule. He logged as many as 75,000 miles annually during much of his career and was reported to have run up telephone bills on the order of $300,000 a year.

In his own view, the breakthrough point in his business life came in 1927 when, as a $20-million subcontractor on a Cuban road-building project, the Kaiser company built 200 miles of highway and 500 bridges into the interior of the island. The venture meant recruiting and organizing 6,000 workers, largely unskilled, but the job, which took four and a half years, was completed well ahead of schedule.

"The biggest headache of all," Mr. Kaiser once recalled to an interviewer "was to muster able management and supervision.

"We learned you can't just pay high salaries and import the finest talents into your organization. You and the men who work with you have to build yourselves up to the capacity to tackle bigger and bigger jobs."

Bigger and bigger jobs were in the offing. While still in Cuba, Mr. Kaiser learned of the plans to build Hoover (Boulder) Dam on the Colorado River. At that point it was one of the largest structures contemplated by man.

"I lay awake nights in a sweltering tent in Cuba," he recalled, "dreaming of this great day and thinking it over and over."

POOLING KNOW-HOW

His dreaming and thinking led Mr. Kaiser to the conclusion "that no single company was alone." "Why not," he reasoned "get a group of contractors together as partners and pool their individual know-how?"

Out of this concept came the formation, in 1931, of Six Companies, Inc., which received the contract to build the giant dam. Mr. Kaiser became chairman of the group's executive committee.

Along with some of his associates from this successful four-year project, Mr. Kaiser, in 1934, formed and became president of the Columbia Construction Company, which participated in the building of the Bonneville Dam, and, later, through Consolidated Builders, he constructed Grand Coulee Dam on the Columbia River.

In addition to these activities, Mr. Kaiser undertook such other heavy construction projects as the piers of the San Francisco-Oakland Bay Bridge; levees on the Mississippi River; pipelines in the Northwest, Southwest and Mexico; naval defenses on Wake, Guam and Hawaii, and a 30-mile aqueduct for the New York City water system.

Up to the start of World War II, Mr. Kaiser and companies associated with him had built about 1,000 projects totaling $383-million.

SHIPBUILDING RECORDS

He also participated in the construction of the Shasta Dam in Northern California, winning a bid in 1939 to supply 6 million barrels of cement and 11 million tons of aggregates.

"They tell me," he remarked at one point, "I often go out on a limb. Well, that's where I like to be." On the Shasta Dam project, for example, he demonstrated one of the techniques for large-scale operations that virtually became his trademark.

He built a 9.6-mile conveyor belt to carry sand and gravel from Redding, Calif., to the dam site. He also built a mammoth cement plant at Permanente, Calif., confounding his competitors for the cement contract on the Shasta Dam. At the time he submitted his bid he didn't even have a site for the cement plant.

Upon the outbreak of World War II, Mr. Kaiser rose to international prominence through the speed, breadth and quality of his war construction program. Although new to shipbuilding, the Kaiser organization entered the ship-repair and shipbuilding business on a colossal scale.

It was soon setting records for speed in the launching of cargo ships. The use of prefabrication techniques and his by now familiar innovations culminated in the completion of a 10,500-ton freighter at a Richmond, Calif., yard in 4 days and 15 hours from keeling to launching.

Averaging a ship a day, Mr. Kaiser went on to build a total of 1,490 vessels, including nearly one-third of the entire American production of merchant shipping and 50 small aircraft carriers, on his 58 shipways. He wound up operating a chain of six shipyards on the Pacific Coast and one on the Atlantic.

Just as he needed cement for the Shasta Dam project, and proceeded to build his own plant, so he found he needed steel for his shipbuilding activities.

He proceeded to build, at Fontana, Calif., the Pacific Coast's first completely integrated iron and steel plant—containing, in one facility, all the equipment necessary for producing both metals. He financed this venture with a $112-million loan from the Reconstruction Finance Corporation.

To equip ships with engines built by his yards, he bought and expanded an ironworks at Sunnyvale, Calif. At Permanente he constructed and put into operation a magnesium plant to supply that metal for airplane construction.

Before the war ended, Mr. Kaiser was also in the aircraft and aircraft-parts business and was managing the largest artillery shell operations in the country.

ALUMINUM ENTERPRISE

Characteristically, he entered the postwar period with all the drive he had displayed before and during the war, and soon added an aluminum facility to his steelmaking operations. By 1947 his aluminum enterprise, in business less than a year, showed sales of $41.7-million and earnings of $5.3-million.

He boldly entered the automobile business with the formation, in 1945, of the Kaiser-Frazer Corporation, which leased the huge Willow Run plant near Detroit. Initially, both a Kaiser and a Frazer car were produced.

Mr. Kaiser once said, "In the Frazer there is the heart of Joe Frazer and in the Kaiser you will find the soul of Henry Kaiser." His partner was Joseph W. Frazer, who had had 30 years in the sales and financial aspects of the automobile business.

The Frazer and Kaiser passenger cars were eagerly awaited by a car-hungry public after the war. But by 1955 the three main models, the Kaiser, the Frazer and the compact Henry J., had joined a long list of also-rans in the highly competitive automobile business. Mr. Kaiser attributed the failure of the venture to undercapitalization.

Today the affiliated Kaiser companies turn out 300 products from 180 plants and projects in 32 states and 40 foreign countries.

They employ more than 90,000 people and have 130,000 stockholders.

In recent years, Mr. Kaiser concentrated his energies on the development of extensive resort and community facilities, including a $4-million Kaiser Foundation hospital in Hawaii.

A hulking, bald, bull-shouldered figure, Mr. Kaiser packed his 6-foot, 240-pound frame off to Hawaii and the island of Oahu for a rest in 1954. Impressed with the potential he sighted there, he soon was casting about for some land and in short order built the Hawaiian Village hotel.

This was, typically, merely the first step in what was to become a 6,000-acre, $350-million housing and resort development known as Hawaii-Kai.

Just as he had made his presence felt wherever he turned up, Mr. Kaiser soon became a familiar figure on the island, sporting, among other things, pink décor for his hotel, a pink Lincoln Continental of his own, a profusion of pink Jeeps, pink bulldozers and road-grading equipment. "Pink," he told an inquiring reporter, "is a happy color."

Most happy himself when working full tilt, Mr. Kaiser never took the time to pursue such standard executive pursuits as golf. He was active in hydroplane racing for a time, sometimes piloting his own cup-winning Scotter II and Hawaii-Kai at speeds of 100 miles an hour. He left the competitive driving to professionals, however.

Generally up at 5:30 A.M. every day, Mr. Kaiser switched on his television and radio sets for the news, ate a quick steak breakfast and was off and running for what generally consisted of 16-hour working days. He was a nonsmoker and relaxed occasionally with a pre-dinner drink.

He sported two watches, one bearing West Coast time, the other showing the time where he happened to be, in recent years mostly Hawaiian time.

A registered Republican, Mr. Kaiser was an independent voter who, during the immediate postwar years, was the object of a brief Presidential boom. It was reported that President Franklin D. Roosevelt considered him as a possible running mate in the 1944 campaign. But Mr. Kaiser regarded himself as a builder, not a politician.

MEDICAL CARE PROGRAM

Mr. Kaiser's continuing interest in health and medical care led to the development of the Kaiser Foundation Medical Care Program. The program includes the building of self-sustaining hospitals and medical centers where medical care is provided by independent partnerships of doctors under a prepayment health plan. More than 1.25 million people in California, Oregon, Washington and Hawaii are members of the plan.

Among many honors and citations, Mr. Kaiser received in 1965 the Murray-Green Award from the A.F.L.–C.I.O. Executive Council for outstanding service to the labor movement. He was the first industrialist to be given this highest honor bestowed by organized labor.

His lifelong theme, said Joseph A. Beirne, chairman of the A.F.L.–C.I.O. Community Services Committee, in presenting the award, has been: "The worker is a human being."

Mr. Kaiser was unable to attend the award dinner in Washington. His surviving son, Edgar Fosburgh Kaiser, read his remarks for him, which said in part:

"I have often been asked, 'What is it, Mr. Kaiser, in your organization that enables you to make impossible projects become possible?' I appreciate the compliment and answer that our real job is not the building of dams, ships, factories and hospitals, our job is to build and develop people, to bring out their courage, their talents, their zeal and their will to work."

Mr. Kaiser's first wife, Mrs. Bessie Fosburgh Kaiser, died March 14, 1951, in Oakland, Calif. The couple had another son, Henry J. Jr., who died in 1961.

On April 10, 1951, Mr. Kaiser married his wife's former nurse Alyce Chester.

INFORMATION LEAK ON BOND ISSUE

Mr. WILLIAMS of Delaware. Mr. President, once again questions have been raised that there was a leak of advance information concerning the interest rates, maturity date, and so forth, of a new $2.5 billion bond issue which the Treasury Department released to the public yesterday.

The Treasury Department has confirmed that this information was leaked, and transactions on the exchange clearly indicate that inside speculators were able to take advantage of it.

This is the third time in the past few months that vital information has been leaked from the Treasury Department. First, in May of this year there was a premature leak of information concerning the administration's change in policy on silver. Second, earlier this month there was a leak of the President's message on the 10-percent surtax, and now once again there was a leak on the advance terms of a $2.5 billion bond issue.

As a result of these leaks, speculators with the inside information have been able to reap profits of millions.

When we stop to consider that these leaks all developed through one agency of the Government, it is time that we get more than a milktoast promise from the Secretary of the Treasury that he will investigate.

At a time when the administration has asked the American taxpayers to pay an additional 10-percent surtax, certainly the very least this Department can do is to stop handing out advance information to those with inside contacts.

The Senator from Indiana [Mr. HARTKE] and I, under date of August 9, directed a letter to the chairman of the Senate Finance Committee asking for an investigation of the two previous leaks from this Department. We are today requesting the chairman to place the question of a full-scale investigation on the agenda for the consideration of the Finance Committee at its next executive session.

It is essential that this investigation be conducted to determine first, the source of the leak, and second, who profited therefrom. The Treasury Department is one of the most sensitive Federal agencies, and this challenge to its integrity cannot be left unanswered.

At this point I ask unanimous consent to have placed in the RECORD two articles concerning these leaks—the first, an article by Lee M. Cohen as appearing in the Washington Star of August 20; and the second, an article appearing in today's issue of the Wall Street Journal.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Star, Aug. 20, 1967]

BOND NEWS "LEAK" PROMPTS TREASURY PROBE

(By Lee M. Cohn)

The Treasury is looking into an apparent "leak" to the bond market of information on a $2.5 billion borrowing operation last week, a debt-management official said yesterday.

Such advance knowledge could be worth a lot of money to a bond dealer or investor.

The Treasury officially announced at 3:00 p.m. Thursday, the closing hour for normal trading, that it will borrow $2.5 billion through the sale of 3½-year notes.

Subscriptions will be received Tuesday for the notes, which will pay 5.375 percent interest and will be priced at a discount from face value to make the effective interest yield 5.40 percent.

PECULIAR SHIFT NOTED

About a half-hour before the official announcement, market prices shifted peculiarly—in a manner similar to what would be expected if the terms of the financing were known.

Prices declined on already outstanding Treasury securities maturing between November 1970 and May 1972. The new notes will mature in February 1971, increasing the supply of securities in that general sector.

Increased supplies of securities relative to demand in any maturity sector tend to push prices down.

At the same time, prices rose on outstanding securities maturing around August 1973.

The market had conjectured for weeks that the Treasury might sell notes maturing in about seven years, at an interest rate of about 5.5 percent.

SUPPLY KEPT DOWN

An increased supply of seven-year securities probably would have depressed prices. The Treasury's decision against selling seven-year notes kept the supply down and normally would stabilize or raise prices.

When prices shifted Thursday before the Treasury's official announcement, word spread quickly through the market that the terms had leaked.

A Treasury debt-management official said yesterday he had heard the reports of a leak and was "concerned about it."

No "formal investigation" is being conducted, he said, but "I would like to get to the bottom of it and we are going to make efforts to track it down."

He said he had not heard directly from anyone claiming advance knowledge.

PROFIT POSSIBLE

A dealer or investor with advance information Thursday could have profited by selling securities maturing in around three and a half years or buying in the seven-year sector.

The official said he knew of no one who had made money on the leak, if there was one.

Officials said they were not sure about any laws penalizing premature disclosure of such sensitive information. There are many possible ways the terms could have leaked, they continued.

Terms of a financing are not decided finally until the day of the announcement, after the debt managers check market conditions.

SENT BY WIRE

The terms are sent by government wire to the 12 regional Federal Reserve Banks, which distribute them to their branches. The Federal Reserve handles subscriptions for Treasury securities sales.

Officials said they were not sure what time the wires were dispatched Thursday. They said normal practice is to send the wires some time after noon, but more than an hour before the public announcement.

The wires carry warnings against premature disclosure.

The text of a press release detailing the terms normally is processed by Treasury employees before the announcement time.

Treasury information officers read the announcement by phone to financial reporters a few minutes before the release time Thursday, with warnings not to disseminate the information until 3:30 p.m.

[From the Wall Street Journal, Aug. 25, 1967]

TREASURY'S NOTES OF $2.5 BILLION SELL FAIRLY WELL—BUT SUSPICIONS OF "LEAKING" OF ADVANCE INFORMATION ON TERMS CLOUD AUCTION—MOST ALLOTMENTS ARE 38 PERCENT

WASHINGTON.—The Treasury's $2.5 billion note offer sold reasonably well, but the operation is being clouded by suspicions that advance information was "leaked" to speculators.

The offering drew a response strong enough to require rationing most investors to 38% of the amount they sought. The allotment reflected somewhat less demand than originally anticipated in the financial community but a bit stronger demand than generally expected later, a Treasury analyst said.

Altogether, the Treasury accepted orders for $2,498,000,000 of the 3½ year notes, of a total $5,990,000,000 received. The notes carry a 5⅜% interest coupon but were priced at a discount of 99.92 per $100 of face value to yield about 5.4%.

BANKS ORDER MOST NOTES

Banks accounted for the bulk of the orders submitted requesting $4,603,000,000 for their own portfolios. This was expected, officials said, since the maturity was scaled to banks' likely desires and since they were permitted to pay for them through credits to their Treasury tax and loan accounts, thus avoiding immediate cash drains. All other investors sought $1,387,000,000 of the notes.

Tips that advance information on the offering was "leaked" to some market participants are under investigation, an official said, expressing hope that the inquiry will be completed soon. While details of Treasury offerings are a closely guarded secret, some transactions just prior to the public announcement on Aug. 17 were suspicious enough that several dealers phoned the New York Federal Reserve Bank's trading desk that day to express concern.

Authorities expressed doubt that advance disclosure of financing terms could lead to criminal prosecution, but said they "could and would" fire any Treasury employee found to have violated department regulations in such a manner.

INVESTOR DEMAND "REASONABLE"

As to the offering's final results, a Treasury analyst called the investor demand "reasonable," considering the continuing uncertainty in capital markets over the fate of President Johnson's proposed 10% income tax surcharge.

In another development, Budget Director Charles L. Schultze testified that assurance that the proposed tax rise will be enacted would have a favorable "psychological impact" on the financial community even if most of the Treasury's borrowing is done before it takes effect. At a Joint Economic Committee hearing, he told Rep. Reuss (D., Wis.), that "the money markets are watching as carefully as we are what the Congress might do," as enactment would mean relatively less of the Treasury's borrowing will have to be a long-term addition to the public debt.

If the surcharge is passed according to the President's plan and the administrative budget deficit is held to his lowest estimate of $14 billion, Mr. Schultze said, the net market borrowing by the Treasury and other Federal agencies would be about $10 billion to $12 billion. This estimate, he said allows for several billion dollars of purchases of Treasury securities by Government trust funds and Federal Reserve Banks.

SHARP CONTRAST TO LAST YEAR

While the demands on the financial markets would thus be less than the deficit figure alone indicates, Mr. Schultze stressed that this is a sharp contrast to the last fiscal year, when trust funds and reserve banks bought so much Treasury debt that the total of all Government securities owned by private investors was reduced. And without the surcharge, he said, the Government's needs for credit from the private economy would be "well up into the 20s" of billions of dollars.

The Treasury itself, another official said later, hasn't made any change so far in its projection that it will have to borrow about $6.5 billion to $7 billion more by the end of December, which would bring its July-December new-cash financing to about $15 billion. Some of this borrowing is in securities that mature next spring, so the figure isn't directly comparable to those used by Mr. Schultze. Also the Treasury figures don't allow for any offsetting purchases by other Government accounts, and they don't encompass new borrowing that other agencies might do.

Mr. WILLIAMS of Delaware. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further morning business?

DEATH OF HENRY J. KAISER

Mr. RANDOLPH. Mr. President, a truly remarkable man has died in recent hours, Henry J. Kaiser. At the age of 85, this industrialist and humanitarian passed from an active life while living, as he had been for several years, in the State of Hawaii.

Mr. President, in the State of West Virginia we have many important industries. One of the most successful is the Kaiser Aluminum installation near Ravenswood. This plant was located in West Virginia through the personal and direct decision of Henry J. Kaiser.

I very well recall the occasion of the dinner meeting in the high school gymnasium at Ravenswood, when Henry J. Kaiser was honored for the selection of the West Virginia site for the construction of a plant.

In essence, Mr. Kaiser said:

We did not locate this plant in this valley, because it is a wide valley. There are other valleys just as wide throughout the country. We did not locate this plant here because the Ohio River is a deep body of water. There are other rivers just as deep in this Nation. We came to West Virginia because the people wanted us to come.

Mr. Kaiser said that he and the officials of the company had been assured by our citizens that they would work to make the plant a success.

This was in 1955. That plant has been a success. There are more laborers in that one installation today, I am told, than in any other single installation of the great Kaiser empire. As my distinguished colleague [Mr. BYRD], who now sits in the Chamber, well knows, approximately 3,500 men and women are employed in a modern facility.

The people of West Virginia have cooperated. The laborers have been worthy of their hire. The productivity of the plant has been very high.

Mr. President, on March 25 of this year, I visited Mr. Kaiser in his home on the outskirts of Honolulu in the State of Hawaii.

The PRESIDING OFFICER (Mr. MONDALE in the chair). The time of the Senator from West Virginia has expired.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that my colleague, Mr. RANDOLPH, be permitted to proceed for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. As I sat talking with Mr. Kaiser, I noted that he was not physically strong, as he had once been, but he was mentally alert.

I shall cherish not only the memory of that night in the gymnasium at Ravenswood, when I presented Mr. Kaiser for his speech, but I shall ever remember Mr. Kaiser on the occasion of the conference a few months ago.

Mr. President, I have stated in essence what Mr. Kaiser said about the location of the plant in West Virginia. He was interested in products, but he was intensely interested in the contribution of people in the making of products. As I was privileged to shake his hand on leaving his home, he remarked:

Tell our young people that there is so much yet to be done. We have only scratched the surface.

What a wonderful way for a man to think at the age of 85.

Now Henry J. Kaiser has died. But he has left a legacy to the men and women of this country who believe in cooperative effort between management and labor, which is the secret of the great productivity of our American enterprise system.

Mr. President, I have used these moments to speak in the Chamber today, because in the continuing discussion of complex issues which are before us, hour by hour, it is appropriate that we pause and express our genuine debt of gratitude for such leaders as Henry J. Kaiser.

Mr. BYRD of West Virginia. Mr. President, will my colleague yield to me?

Mr. RANDOLPH. I am happy to yield.

Mr. BYRD of West Virginia. I shall not attempt to add to what my colleague has already said, except to state that the expressions of my senior colleague today exemplify thoroughly and well the solemn thoughts of myself and fellow West Virginians.

My State and its people mourn the passing of this great industrial leader, a man whose work has benefited so many Americans, not only in West Virginia, but also elsewhere.

My State and its people extend their sympathy to the family and the host of friends who mourn the passing of Henry J. Kaiser.

Mr. RANDOLPH. Mr. President, the remarks of my able colleague express for both of us the feeling that not only we but literally thousands and thousands of West Virginians also have for this man, whom many of us knew.

Our people today come down from the highlands of West Virginia and travel as much as 150 miles a day round trip to work in this plant in the valley. They are good workers. As I have indicated they are worthy of their hire and we are grateful that Mr. Kaiser and other executives within his industrial empire determined to locate the installation in West Virginia. Our economy has benefited. Products are manufactured. Workers have

gainful jobs. Behind these gains there was a guiding genius—a dreamer who was dynamic during his life of success and service. This man was Henry J. Kaiser.

Mr. FONG. Mr. President, it was with deep regret that I learned of the death of Henry John Kaiser, a great industrialist, builder, hospital founder, and humanitarian, who passed away yesterday in Honolulu at the age of 85.

His name and fame was international; his vast interests spread over many States of our Nation and in 40 countries overseas. During a fabulous lifetime of service to his country and his fellow man, Henry Kaiser gave fully of his prodigious energy, drive, and creative imagination. He became what few men achieve—a legend in his own lifetime.

Because his achievements were so numerous and dispersed far and wide, many communities identify themselves with the life and good works of Henry Kaiser. Hawaii is especially proud to claim him as one of her own. We are proud that he chose Hawaii for his home.

He came to Hawaii in 1955, at a time when his vision and business acumen helped to open vistas of what the future Hawaii could be. In his own words, he found a need and filled it.

He directly supervised the building of the Hawaiian Village Hotel, the Kaiser Foundation Medical Center, a large cement plant, and radio and television broadcasting facilities.

His brightest island dream—the building of a new community of Hawaii-Kai in Honolulu for an ultimate population of 60,000 residents—is well on its way to fulfillment.

In launching his projects, Henry Kaiser often encountered obstacles which would have dismayed lesser men. "All my life," he once remarked, "I've been going against the wind"—and succeeding.

The high esteem and affection in which he was held in his adopted State of Hawaii are reflected in the varied honors conferred on him, among them Hawaii Salesman of the Year Award; Order of the Splintered Paddle Award; Honolulu Realty Board honorary membership; Hawaii Father of the Year; resolutions by three Hawaii Legislatures hailing his contributions to Hawaii's development; Hawaii's Native-Born Citizen of the Year; and Brotherhood Award as "Distinguished Builder of Society."

They are symbolic of the gratitude of the community where he spent the last, busy 12 years of his life. They were added to the host of other awards and honors presented him elsewhere, including seven honorary doctorate degrees, Degree of Chevalier, Legion of Honor, from France; and honors from international, national, and local organizations.

In his passing, Hawaii and the Nation lost a distinguished citizen who will be sorely missed.

Mrs. Fong and I extend our heartfelt sympathy and sorrowful aloha to his survivors—his wife, Alyce, of Honolulu; his son, Edgar F., who has long held top executive positions in his father's enterprises; two sisters, Elizabeth Cummings of Los Angeles, and Augusta Le Sesne of Daytona Beach, Fla.; and nine grandchildren.

On his 85th birthday, May 9, 1967, the Honolulu Star-Bulletin published an interview with Henry Kaiser, in which his colorful and dynamic personality is revealed by the writer, Cobey Black. I ask unanimous consent to have the article printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A GIANT LEAVES HIS FOOTPRINTS ON THE SANDS OF TIME

(By Cobey Black)

Have you fulfilled your dream, Mr. Kaiser? I asked.

"Which dream?" came the answer, followed by a soft chuckle. The voice at the other end of the long distance phone was clear and alert.

"Our fellows used to joke about my having a new sunrise idea each day," continued Henry J. Kaiser from his main office atop the Kaiser Center in Oakland, California, where he is celebrating his 85th birthday today by working as usual.

"And I'm looking forward to the next 85." Again the chuckle came over the line. "I think when one stops dreaming new dreams, it must be a sign of getting old. But if you can dream and then work to make those dreams come true, it keeps you young and puts real zest into life. Wasn't it the poet Robert Browning who said your reach should exceed your grasp, or what's a heaven for?"

Perhaps it was prophetic that when Browning said these words, a young boy in Sprout Brook, New York, was just beginning to dream.

Henry J. Kaiser was born on May 9, 1885, seven years before his favorite poet's death, in the frame farmhouse of his German immigrant parents. His father was a shoemaker, his mother a practical nurse. Young Henry left school at 13 to take a job at $1.50 a week in a drygoods store. Today from the eyrie of his international headquarters, he scans an industrial empire with assets exceeding $2.7 billion in 33 states and more than 40 countries.

In his golden years he can look back on a life predicated on the golden rule of helping his fellow man. Kaiser is not a man to look back, however.

"A builder's job is never done," he told me. "Before you finish the current work, you should be thinking of the next job.

"The fact is that as a young man and up through almost the first 30 years of my life, I had to search my mind and soul hard trying to find a great dream of my life—to discover just what I most wanted to do—to achieve a great motivating purpose in my career. Then I found that more than anything else I wanted to be a builder.

"So when you ask me whether my dream has been fulfilled, I have to say that I never want to feel satisfied that I've done all I could and should. The dream of hospitals and medical care for people can never be completely fulfilled," said the master builder who resolved at the age of 16, when his mother died in his arms for lack of medical care, that he would help others protect their health.

In a lifetime of good works, the project closest to Kaiser's heart has been the founding of the world's largest private initiative system of hospitals and pre-paid medical care, with 18 Kaiser Foundation Hospitals, 40 clinics, and a health plan that provides care by 1,500 doctors for 1,500,000 members.

"That dream, I hope, can go on and on forever, with more and more persons giving of themselves to bring better health to more people. The dream of fulfilling human needs should go on and on, with more willing hands taking it up."

To whom do you credit your success? I asked.

"My first thought is of my mother. She taught me the simple truths, yet the greatest lessons of my life. She tried to inculcate in her son and daughters a love of people, the aim of serving others—just as she gave her services as a nurse to her neighbors. She said 'Henry, if I give you nothing else but the joy of work, it will be a great thing.' She taught me faith.

"I walked the streets of New York City for three weeks hunting a job and being turned down. I pitched hay from morn till night. I walked four miles from my home to the drygoods store until I made a deal with the operator of the horsedrawn streetcar that I would hitch up the horse at 5 a.m. and drive the car to his house. That way I earned the nickel fare.

"When I moved West, I had to apply 13 times for a job in a hardware store in Spokane before the owner hired me. Things didn't come easy, and the struggles probably are the making of a fellow."

Kaiser kept the faith through a series of struggles that inevitably ended in success:

While still in the drygoods store he made extra money by selling photographs on the side, eventually offering the owner of a photographic shop to work for nothing if he could double the business in a year and receive half an interest. He trebled the business and bought it out. The sign outside his first store read: "Meet the Man with a Smile."

With stores in New York, Florida and Nassau, the young man went West. He became a road builder, opening his first company in Vancouver at the age of 32.

He jumped off a moving train to get his first job in California, a road contract in Redding. The train didn't stop in this small town, but when it slowed down to dump off the mail, it also dumped off Henry Kaiser. He won the contract and established his headquarters in Oakland. Today the 28-story Kaiser Center stands on the site.

The same ingenuity and extra effort that enabled him to pave roads at double the previous speed, Kaiser also applied to building dams. Chairman of the executive committee of the combined companies that built Hoover Dam, he completed the job two years ahead of schedule.

During World War II, Kaiser's 58 shipways produced 30 percent of merchant shipping, plus 50 small carriers, averaging a new ship a day and a carrier a week. The Robert E. Peary was launched four days and 15 hours after the keel was laid—and the ship was complete with bath towels and sharpened pencils in the chart room.

It was during these expedited days that Henry Kaiser assumed the stride of the industrial giant. Among the Kaiser companies that thrived: Kaiser Sand & Gravel, now one of the largest producers of aggregates in California; Kaiser Cement & Gypsum Corporation, largest cement company in the West with 43 plants and $99 million in annual sales; Kaiser Steel Corporation, ninth largest in the country with more than a third billion dollars in sales a year. Kaiser Aluminum today has assets in excess of $1 billion and is the fourth largest producer in the world. Kaiser Jeep sales totaled $333 million in 1966, and his Jeeps are manufactured in 33 countries.

In 1955 the giant made his first footprint on the sands of Waikiki. This step marked the start of Hawaii's building boom and kicked off the explosion of tourism.

I remember an early morning in June of that year when bulldozers broke ground for Kaiser's Hawaiian dream, a rush-order hotel which many reactionaries predicted would become a nightmare. Although in his seventies, Henry J. Kaiser himself worked 16 hours a day, directing construction. He inaugurated the unprecedented practice of hiring labor crews around the clock. Exactly three months later, the doors of the Hawaiian Village

opened as scheduled. Within a year, the village had mushroomed into a 1,146-room high-rise hotel.

One day, while I was following Mr. Kaiser through rooms that went up around us, a distraught foreman took me aside and said, "The boss had a dream last night of a waterfall and he wants it reconstructed in the lobby by tomorrow."

Another sunrise idea was the aluminum dome. "How do you like it, Cobey?" Mr. Kaiser asked me. "Practical," I said, "but hardly Hawaiian." Undaunted, Mr. Kaiser replied, "It looks just like a pineapple."

And then there was the evening he invited Maestro George Barati to conduct the Honolulu Symphony in the dome and Alfred Apaka to sing, so the press could appreciate the acoustics. All went well, until a reporter asked the boss how it would sound if it rained. Kaiser paused and just then a sudden tropical shower hit the aluminum roof. "Like that," said Mr. Kaiser calmly. We all knew then we had a superman to reckon with.

I was with Mr. Kaiser and Conrad Hilton on another occasion, during their first meeting, when the worldwide builder began to quote Tennyson's "Locksley Hall" to the worldwide hotel man. The expression on Mr. Hilton's face clearly indicated that he'd met his match.

It was in those early days that I paraphrased a bit of prophetic poesie of my own:

"At Waikiki did Kaiser Khan
An aluminum pleasure dome decree
Where Alf the sacred singer sang
Through pink rooms measureless to man
Down to the sunlit sea."

But none of us guessed that Kaiser's building dream would go to even greater heights—or lengths, and that a whole community would spring from his fertile imagination—Hawaii-Kai, with an ultimate population of 60,000.

On the occasion of his 75th birthday, I asked Henry Kaiser when he intended to retire. "When I grow old," he told me.

Yesterday I asked him the same question.

"Never," said the firm voice. "Once I remarked that I expected to be living and working beyond the age of 100. And one of my company presidents said, 'I don't doubt you'll be working at 100, Mr. Kaiser. But you'll be surrounded with a lot of strange faces.' I'd be lost if I couldn't have the fun of working every day."

If there is a secret to your success, I then asked, would you confide it to me?

"You must want with all your heart to succeed—to make the most out of your life. Call it motivation. Find a purpose in life—a goal. How can you follow your natural bent and best use your individual talents? Know yourself.

"I am reminded of the Andrew Carnegie epitaph, 'He succeeded because he surrounded himself with people who knew more than I did.' I have always felt that keenly: great accomplishments come from great teamwork. We have an expression that there are 'thousands of sons and daughters' working together, building together and creating the ceaseless achievements of our family of industries," continued the father who has 90,000 "sons and daughters" on his payroll.

"Have faith in yourself," continued Mr. Kaiser, "and your highest aspirations. For as Jesus said, 'All things are possible to him that believeth.' Find a need and fill it."

It was appropriate that a poem then came to mind:

"Emily Dickinson gave us 'Aspiration'—

'We never know how high we are
Till we are called to rise;
And then if we are true to plan,
Our statures reach the skies.' "

There was a pause at the end of the line, and I asked Henry J. Kaiser if he felt the world which he helped build was a better place to live in.

"Absolutely," he said. "The horizons ahead are limitless. It's been forecast that in the year 2000 the average family will be earning close to $15,000 a year, the national income will reach $2,000 billion—think of it, two trillion. We can realize abundance for all and achievements in the finest values.

"My words of advise to all young people," concluded the man whom the Hawaiian Legislature commended in a resolution for youthfulness and enthusiasm enough to inspire men half his age, "are 'Make up your mind to achieve the best within you. With a goal you can realize your greatest joy in working. And above all, pursue your dream!' "

Mr. INOUYE. Mr. President, Henry J. Kaiser, one of the great industrial giants of our time, is dead at 85. Mr. Kaiser died yesterday in Honolulu in the Island State that he had come to love since he first assumed residency there in 1955.

Like the ancient pharoahs, Henry Kaiser build enduring monuments to his name—great dams, bridges, tunnels, and roads. His vast industrial complexes—steel, aluminum, cement, electronics, chemicals, and automobiles—provided gainful employment for some 90,000 workers here and abroad.

The Kaiser Foundation Health Plan has more than 1.5 million members served by 18 hospitals and more than 40 medical clinics.

Henry Kaiser earned the Nation's gratitude in World War II when he built 1,490 ships, roughly 30 percent of the American production of merchant shipping in this period, plus 50 small aircraft carriers.

When he came to Hawaii little more than a decade ago, in the sunset of his years, many believed the great man had at last chosen the retirement that was certainly his due.

But it was only the beginning of yet another fabulous era in his career. He personally supervised the building of the 1,146-room Hawaiian Village Hotel, founded a $13.5 million cement plant, developed a major radio and television station in Honolulu, and opened the Kaiser Foundation Medical Center.

His last great effort was the development of Hawaii Kai, a self-contained community designed for an ultimate population of some 60,000 residents.

To the end of his days in Honolulu, Henry Kaiser manned his communications desk, an electronic complex which could take him to the farthest reaches of the Kaiser empire in a matter of minutes.

Many a Kaiser executive here or abroad knew what it was to be awakened in the early morning hours with a call from the "old man" who wanted to discuss a new idea or a fresh approach to an old problem.

When he once ran into unexpectedly high dredging prices in Honolulu, he simply picked up the telephone and ordered a complete dredging company. In a matter of weeks, more than 50 flatcars were rolling toward California ports with his equipment.

Henry Kaiser was a success in virtually every undertaking because he did not know when to quit. As he once said:

I always have to dream up there against the stars. If I don't dream I'll make it, I won't even get close.

THE NEED FOR CONGRESSIONAL RESPONSE TO THE URBAN COALITION

Mr. JAVITS. Mr. President, I wish to say a word about the meeting here in Washington yesterday of the organization known as the Urban Coalition.

Eight hundred leaders from all sectors of life in the United States met to organize private and municipal efforts in what is, without any doubt, the area of primary importance in the United States today—what I call the agony of the cities. I was glad to hear Mayor Lindsay use that expression yesterday.

Mr. President, this is a very influential group, united in a declaration which is especially significant to me, and must be especially significant to Congress, namely that we are not doing nearly enough, that the crisis is not being recognized in Congress and throughout the country except insofar as riots and violence have actually broken out and the country, as always, is determined that violence and riots must be suppressed.

But, then what?

I remind the Senate that the urban coalition is a private organization. Indeed, Federal officials were disinvited, so to speak, though it was not unkindly done.

I think it was quite right that we should be, because they were seeking to bring some pressure to bear upon us. Indeed, it was not necesary for us to join them, as they were not looking for a consensus, but they were looking for action.

Mr. President, the fact is that the administration, the President, despite his repeated statements that pending bills are what he wants, is not reacting adequately to this crisis, because new programs are needed in the areas of emergency employment, and especially in incentives to private business, both profit and nonprofit, to train and hire the hard-core unemployed; incentives to the private sector to stimulate economic development in ghetto areas; and incentives to increase materially private and public investment in ghetto housing, rehabilitation, and construction.

The common idea that all this takes tons of money is completely erroneous. It may take great facilitation, but in most cases it does not take any money at all.

For one, the President of the United States is yet to express his favor for some kind of tax incentive to locate businesses in or near ghettos or slum areas or to train and hire the unemployed.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may continue for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. It is also noteworthy that in spite of all this alleged interest in the ghettos and slums, the President has yet to call together a White House meeting of U.S. private business leaders in order to get them to assume their obligations and their responsibilities in regard to deal-

ing with the problems of the slums and ghettos.

In my judgment, if the President approached the problem on that high a level, it would result in two things. It would result, first, in an enormous increase in private developments, which have sprung up in many places—not necessarily with presidential inspiration—and, second, in the establishment of a national entity, for which I have called, a so-called economic opportunity enterprise, to bring about an effective war on poverty. In addition, we would have recommendations as to what are most effective to bring it about—tax incentives, meshing the poverty program into the industrial system of the country and many other matters.

Finally, there are enormous possibilities in the rehabilitation of ghetto housing, which is infinitely quicker in its applicability than the bulldozing down and building of new housing—though that is essential, too, in many areas of the country. In order to deal with mass rehabilitation of ghetto housing we must involve the private enterprise system. There are already a good many provisions on the books, including the leasing program for housing for low-income families, the so-called 221(d)3 program, the program which I have suggested for guaranteeing an interest rate on loans for the rehabilitation of housing and guaranteeing bonds issued for the purpose, which will inevitably be repayed. Our experience with that has been excellent.

In short, the leaders of the Urban Coalition have shown us the way; and if the President will not, the Congress must, pick up the challenge and react with courage and imagination.

I call for the formation of a congressional coalition in response to the Urban Coalition's recommendations and principles, and for which I shall support needed legislation and needed appropriations.

I hope the country will not be blinded to the realities by the seeming enthusiasm in the Congress for antiriot measures, and that the country will not be too dismayed—because I think it is going to be reversed—by the derisive treatment in our sister body of the so-called rat control bill. My feeling is—and I say this advisedly—that it is the mood of the Congress and the mood of the country, as I read it, not to punish the ghettos and slums for the riots which have erupted in some areas, but to do our utmost to repair the basic causes which have bred these riots and disorder. I do not condone them, and join in measures to put them down. But this has nothing to do with the governance which requires that justice be done.

So I see a mood here to do justice, and not to punish the ghettos and the slums themselves for the excesses of the few, deplorable as that is. I have seen this attitude. I am a member of the Appropriations Committee, and I am the ranking minority member of the Committee on Labor and Public Welfare, which is marking up the poverty bill. I have been very active in the housing field. I see an attitude—certainly in this body—to be responsive to the situation.

What is lacking is imagination and dedication on the part of the administration to find ways in which this job can be done without enormous expenditures in addition to those we are already undertaking, although additional expenditures will be required and are warranted by the situation, which are equal to the lofty words uttered in the name of this cause.

I think it is well known that in the civil rights struggle in the Congress, we have always had a bipartisan coalition fighting that struggle, and, on the whole, with considerable success. I think the time now has come for a congressional coalition to match the Urban Coalition which was signalized in its formation yesterday, in order to bring about a congressional response which will be apportioned and adequate to the degree of this crisis.

I deeply feel the American people want that. I feel I am right that that is the attitude in the country, though in many quarters there is deep resentment and a backlash, so-called. I think it is the deep feeling that essentially this is the result of the smoldering grievances, not only of lack of jobs, inadequate housing, and deficient educational opportunity, but also the denial of human dignity, which is equally important in this area.

Responsiveness to these basic causes is required as the exercise of the responsibility of government in a great crisis.

I hope that this note will be sounded in response to the action taken by the Urban Coalition yesterday, which I admire, endorse, and approve, and which, as one Senator, I will do my utmost to implement.

I ask unanimous consent that news reports bearing on this subject may be printed in the RECORD as a part of my remarks at this time, and I yield the floor.

There being no objection, the news articles were ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Post, Aug. 25, 1967]

AID TO CITIES PRESSED: URBAN COALITION FINDS LEADERS OF CONGRESS COOL TO PROPOSAL FOR A MASSIVE FEDERAL JOB PROGRAM

(By Jean M. White)

A potentially powerful urban lobby held its first meeting here yesterday and took its demands for urgent action on city problems directly to Congress.

Among the demands was one for a massive Federal program to provide jobs for one million unemployed.

The urban leaders came away from their meeting with Democratic congressional leaders without much encouragement, a spokesman reported.

Detroit Mayor Jerome P. Cavanagh said he didn't find any "sense of urgency" and called for a "massive political action program to move Congress off dead center." He added that some "urban power" also should be channeled to the White House.

Cavanagh reported back to an emergency convocation of more than 1000 delegates of the newly formed Urban Coalition. It bands together leaders of city government, business, labor, religion, and civil rights.

Among the coalition leaders who went to the Hill were Mayors John V. Lindsay of New York, Richard J. Daley of Chicago, James H. J. Tate of Philadelphia, Joseph M. Barr of Pittsburgh, and Ivan Allen Jr. of Atlanta; businessmen Henry Ford II and David Rockefeller; union leader Walter Reuther, and Negro leaders Roy Wilkins and Whitney Young Jr.

The statement adopted by the group clearly implied that President Johnson's urban programs aren't enough to attack massive city problems. There have been reports that the White House has taken a cool view toward the new Urban Coalition, certain to demand stepped-up spending on urban programs.

CRITICIZES PROGRAMS

Cavanagh, whose city was torn by the summer's worst riot, called present programs "too small, too harrow, too pedestrian to really turn our country on."

About 25 coalition leaders had lunch with House Speaker John W. McCormack (D-Mass.), House Majority Whip Majority Leader Carl Albert (D-Okla.), and Sen. Democratic Whip Russell Long (D-La.). None of the Republican leaders was present, although several on both sides had been invited.

"They were presenting to us a program which was more ambitious than the President's program." Boggs later told newsmen. "What we were saying was, 'heck, we had better work on that first.' "

Clarence Mitchell, Washington lobbyist for the NAACP, said McCormack told the urban group that he liked their statement of objectives but that they had to round up votes to get the job done. Mitchell, disagreeing with Cavanagh, said he didn't think the Speaker lacked urgent concern over urban problems.

The new coalition, if it can pull together, could have much influence with the combined strength of big-city mayors and big names in business, labor, civil rights, and the church.

Its support of a Federal emergency work program yesterday heartened supporters of Sen. Joseph S. Clark's effort to attack a $3-billion slum job program to the antipoverty bill. Congressional sources had accused the White House of trying to undermine Clark.

Several other bills have been introduced in the House to provide jobs for hard-core unemployed. Rep. James G. O'Hara (D-Mich.) and Hugh L. Carey (D-N.Y.) are authors of two of the bills.

They call for a $4-billion-a-year program of "public service" works to provide one million jobs in needed community services in the fields of health, education, recreation, and urban improvement. An active co-sponsor has been Rep. James H. Scheuer (D-N.Y.).

Lindsay said the O'Hara bill was "exactly the same" idea that the coalition had in mind for a Federal job program.

The Republican Mayor of New York delivered the keynote address at the emergency convocation and got his biggest applause when he said the Nation's priorities should be shifted to meet the needs of cities even if this means a reassessment of defense and space commitments.

Lindsay told the more than 1000 delegates in a Shoreham Hotel ballroom:

"We are the beginnings of a national coalition of those with a stake in the city and its people."

Coalitions, he stressed, must be organized in local communities to push for action on goals.

The first goals drawn up in the statement adopted yesterday focused on job programs.

The statement called on private industry to help train and hire the hard-core unemployed but added:

"When the private sector is unable to provide employment to those who are both able and willing to work, then in a free society the government must of necessity assume the responsibility and act as the employer of last resort or must assure adequate income levels for those who are unable to work."

The statement was approved unanimously by the steering committee, including Ford, Rockefeller, and several other corporation executives and businessmen.

Ford told the group: "That business must help is no longer in question."

Rockefeller added that central cities "are crucial to the economic health of our Nation, and we must press aggressively" on urban problems.

Coalition Co-Chairmen Andrew Heiskell and A. Philip Randolph announced that five emergency task forces will be appointed to come up with action recommendations in the areas of public service employment, private employment, educational disparities, reconstruction and urban development, and equal housing opportunities.

The coalition is an outgrowth of two meetings. One was held last January by a group of mayors to discuss long-range urban problems. The other was held on July 31 after riots hit Newark and Detroit.

DISSENSION FOUND

The catalytic action to pull together the urban coalition came from Urban America, a nonprofit organization, with the United States Conference of Mayors and the National League of Cities.

The new coalition found some dissension in its ranks yesterday.

Dr. Nathan Wright Jr., chairman of last month's Newark Black Power conference, issued a statement calling for "black insights and black definitions and leadership" in solving urban problems.

He said the coalition-approved statement should include these principles and had been drawn up by "the leaders of our cities while they were going to pot."

At the closing session, several complaints came that the voice of the poor wasn't being heard.

Rufus (Catfish) Mayfield, who identified himself as head of Pride, Inc., the District's summer job program for teen-agers, said he was "hurt by not being invited here."

"But the problem should be here," he said, pointing out that a lot of "important men" were sitting at the long table" but no one like him.

COALITION URGES U.S. ACT TO SPUR JOBS IN THE CITIES—CONFERENCE OF 800 LEADERS CALLS FOR NEW PRIORITIES—HOUSING DRIVE BACKED—PRIVATE ROLE STRESSED—REMARKS AND STATEMENT HINT DELEGATES' DISSATISFACTION WITH JOHNSON PROGRAMS

(By Robert B. Semple Jr.)

WASHINGTON, August 24.—A convocation of more than 800 mayors and business, labor, church and civil rights leaders called on the Government today to "reorder national priorities" and develop "an emergency work program" to provide jobs in the nation's riot-torn cities.

The group, which calls itself the Urban Coalition, held a one-day meeting at the Shoreham Hotel here. It sought solutions to the urban crisis and, in the words of its keynote speaker, Mayor Lindsay of New York, to forge "a national coalition of those with a stake in the city and its people."

In a statement of "principles, goals, and commitments," which was adopted by a rousing voice vote shortly before noon, the coalition pledged itself to work for better urban conditions on a variety of fronts.

AN APPEAL TO WASHINGTON

The statement also urged Congress and the Administration to do the following:

Provide at least one million "meaningful" and "socially useful" jobs immediately, concentrating on "the huge backlog of employment needs in parks, streets, slums, countryside, schools, colleges, libraries and hospitals."

Develop a closer-working relationship with the private sector and, through incentives, encourage industry to create vast new programs of job training.

Undertake "bold and immediate steps" to provide a decent home for every American, "including the goal of at least a million housing units for lower-income families annually."

Although neither the statement nor the speakers mentioned President Johnson by name the tone of the remarks and the substance of the document strongly suggested that the delegates believed the Administration's response to the urban crisis had been insufficient.

The President has indicated several times in recent days that he plans no major new programs this year, arguing instead that his primary mission is to persuade a reluctant Congress to provide money for programs enacted last year.

But the coalition and its leaders clearly felt that additional measures were necessary now, even if it meant a reassessment of the nation's other commitments.

Mr. Lindsay won the day's biggest applause when he stated that the American commitment abroad "should not be allowed to weaken our resolve at home." Later he added:

"If our defense commitment, our commitment to space, or any other commitment made before our urban areas were beset by agony is blocking a vigorous effort to end those agonies, those commitments should be reassessed."

The statement of principles adopted this morning declared:

"We believe the American people and the Congress must reorder national priorities, with a commitment of resources equal to the magnitude of the problems we face," the statement said. "The crisis requires a new dimension of effort in both the public and private sectors, working together to provide jobs, housing, education and the other needs of the cities."

The coalition grew out of a yearlong effort by the big-city mayors to overcome what they felt was "citizen indifference" to city problems. But it did not become a reality until July 31, when, in response to the riots in Newark and Detroit, a decision to call today's meeting was made by the National League of Cities, the National Conference of Mayors, and Urban America, Inc., a nonprofit group.

The participants at the meeting today included well-known leaders from nearly every major field.

There were some notable absentees—no governors, no members of the Federal Government, and, with the exception of a small group from Rochester, N. Y., very few of the poor.

"DEAL WITH ALL SEGMENTS"

The absence of the poor themselves was not a matter of public comment until the closing moments of the session when Andrew Heiskell, board chairman of Time, Inc., who was co-chairman of the meeting, invited final comments from the delegates.

The last to speak was Marion Barry, former leader of the Student Nonviolent Coordinating Committee in the capital, who is now active in other civil rights groups here. Dressed in a green T-shirt and wearing sunglasses, Mr. Barry, who said he had not been invited, moved to the rostrum and warned the coalition not to overlook the poor.

"You've got to deal with all segments," he said, including those "not accustomed to coming to the Shoreham Hotel and fussing round. They don't understand all this hifalutin talk.

"And when you hold these meetings, please don't have them out here at the Shoreham. Hold them down where the people are, get down there and try to get to the nitty-gritty. When that time comes we'll begin to scratch the surface of the urban problem."

RANDOLPH IS COCHAIRMAN

The other co-chairman of the meeting was A. Philip Randolph, president of the Brotherhood of Sleeping Car Porters. Both he and Mr. Heiskell were members of a 32-man steering committee that hammered out the statement of principles in a three-and-a-half-hour session last night.

Other members of the steering committee included Henry Ford 2d, chairman of the Ford Motor Company; David Rockefeller, president of the Chase Manhattan Bank; George Meany, president of the American Federation of Labor and Congress of Industrial Organizations; Walter P. Reuther, president of the United Auto Workers.

Also, Whitney M. Young, Jr., executive director of the National Urban League; Roy Wilkins, executive director of the National Association for the Advancement of Colored People; the Most Rev. John F. Dearden, Roman Catholic Archbishop of Detroit; Rabbi Jacob P. Rudin, president of the Synagogue Council of America, and the mayors of several major cities.

"A LOT OF PLAIN TALKING"

In the opinion of many of the participants, the meeting served several useful purposes apart from the fundamental objective of dramatizing the crisis in the cities.

In the steering committee sessions last night and the panel sessions this afternoon, "a lot of plain talking was done and a lot of problems were finally brought out on the table," one participant told a reporter.

Sources reported, for example, that in last night's meeting, which was closed to the press, Mr. Meany and Joseph D. Keenan, secretary of the International Brotherhood of Electrical Workers, agreed to make a serious, sustained effort to end restrictive admission practices in the building trades unions and cooperate in promoting new and perhaps quicker methods of construction.

COLLEGE WORK-STUDY PROGRAM

Mr. MORSE. Mr. President, will the Senator from New York remain on the floor to be of assistance to me as representing the Republican side with reference to a request I am about to make?

Mr. President, I call up H.R. 11945 and ask for its immediate consideration. May I say that I have cleared this with the majority and minority leaders.

Mr. JAVITS. Mr. President, reserving the right to object—and I shall not object—I would like to state that the Senator from Oregon [Mr. MORSE], in a very gifted way, brought out that this is a very urgent matter in the executive meeting of the Committee on Labor and Public Welfare this morning. The action taken with respect to this bill was unanimous. I realize that we are moving very fast—unusually fast—in this matter, but I state to the Senate, in all fairness, that there were two members of the minority present, both of whom agreed with what was done. I know of no objection to the action that was taken.

I wish to present to the Senate that I consider this a meritorious and worthwhile measure. The Senator from Oregon [Mr. MORSE] properly represents that, implicit in seeking unanimous consent to act upon this measure, it is urgent because of the imminent reopening of the colleges and the universities of America.

Mr. President, I withdraw my reservation.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 11945) to amend the college work-study program with respect to institutional matching and permissible hours of work.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MORSE. Mr. President, we held this morning a hearing before the Education Subcommittee of the Committee on Labor and Public Welfare on S. 2151 and H.R. 11945, measures to amend the college work-study program with respect to institutional matching and permissible hours of work.

In the ordinary course of events the subject matter of this bill would have been incorporated as an amendment to the Higher Education Amendments of 1967. However, as we heard from the witnesses, and as indicated in the correspondence we have received, there is great concern in the educational community about the numbers of students who can be given work-study opportunities under the terms of the existing statute. Unless speedy action is taken upon a separate measure the Office of Education is required under the statute, now in effect, as of August 20, to require that the funding of the work-study program be made upon a 75-percent Federal share and a 25-percent matching institutional share. Heretofore, the matching requirements have been 90 percent Federal and 10 percent institutional.

The proposed legislation would for fiscal year 1968 require an 85-percent Federal and a 15-percent institutional contribution.

As a Senator from Oregon who has for years been working for the enactment of sound legislation in the student financial assistance area, even though I am the author on the Senate side of S. 2151, the companion bill, I feel free to say that in our further work during this session I shall urge upon my colleagues that in the Higher Education Amendments of 1967, amendments be taken which will fix the matching provisions for the future at a 90–10 level.

However, I am also a political realist. I recognize the urgency of the need for effective action to allay concern and I therefore hope the bill will pass.

Mr. President, I ask unanimous consent that the section by section analysis of the bill be printed at this point in my remarks.

There being no objection, the section-by-section analysis of H.R. 11945 was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

AMENDMENTS TO SECTION 124 OF TITLE I OF THE ECONOMIC OPPORTUNITY ACT OF 1964

The existing paragraph (d) of section 124, which limits the number of hours a student may be employed to 15 in any week in which classes in which he is enrolled are held, would be deleted and in its place a new paragraph (d) would provide that the hours of work be averaged over a semester or such other term used by the institution and that this semester average may not exceed 15 per week.

Under existing paragraph (f) of section 124, the share of the compensation of students in the work-study program paid by the Federal Government would drop from a maximum of 90 percent to a maximum of 75 percent on August 20, 1967. The amendment would reduce the Federal share by 5 percent a year beginning August 20, 1967, until 75 percent was reached. The maximum share of 75 percent would be maintained thereafter.

Mr. MORSE. Mr. President, this matter is brought before the Senate at this time as an emergency measure. I thank the Senator from New York for his great help this morning in both the Education Subcommittee and in the full committee, I thank as well every other member of the Senate Committee on Labor and Public Welfare for once again giving their complete cooperation to the chairman of the subcommittee in the handling of the matter in this fashion; and particularly I wish to express my appreciation to the chairman of the full committee, the Senator from Alabama [Mr. HILL].

As I have stated, what we have here is an emergency that has arisen in connection with the work-study program. The work-study program is of inestimable help to young men and women who without it simply cannot enter college this fall. Many otherwise able students cannot go to college at all, unless they have the financial assistance benefits of a work-study program.

It will be recalled that the work-study program, originally under the Office of Economic Opportunity, was transferred to the Commissioner of Education. The formula of support from the Federal Government was 90 percent of the funds for fiscal year 1967 with the institutions committing the remaining 10 percent of the funds from their own resources. The fiscal year 1968 formula provided, however, that the Federal Government contribute 75 percent of the funds, and the college must, therefore, unless the act is modified as is proposed, produce and contribute 25 percent of the funds.

The record before our committee is that there are many small colleges in this Nation which will simply be shut out of the program or must curtail student participation, because they cannot raise the 25 percent; they do not have the revenues nor the endowments which would be needed to raise their contribution. I fear that, unless we act, many young men and women will be cut out of their chance to go to college.

If this formula is to be changed, we should change it before the Labor Day recess, because the colleges will be in operation after Labor Day, and they will not be able to go ahead with their plans to participate fully in the work-study program. So this bill, as an emergency bill, provides for a change of the formula, so that for this fiscal year, fiscal year 1968, the Federal Government will contribute 85 percent of the funds and the college will contribute 15 percent of the funds. I want the RECORD to show that there is support in the House committee for a 90 to 10 matching formula in the future. I shall enthusiastically support such a proposal when we consider the higher education amendments this year in connection with S. 1126, on which further hearings will start after the Labor Day recess; for, in my judgment, we have learned from experience that what we thought might have been a feasible change has proved to be threatening for the work-study program in a number of colleges.

The bill now before the Senate is H.R. 11945, already passed by the House of Representatives. Our committee report is unanimously in favor of its passage, and I now submit the bill to the Senate for consideration, and urge its passage.

Mr. President, I ask unanimous consent that there appear at this point in my remarks the departmental report on H.R. 11945 as well as the text of two of the statements presented to the Education Subcommittee by witnesses who supported the enactment of this legislation. These statements demonstrate, in my judgment, the need for our action on this matter at this time.

There being no objection, the report and the statements were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.

HON. LISTER HILL,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for reports on S. 2151 and H.R. 11945, bills "To amend the college work-study program with respect to institutional matching and permissible hours of work."

The first section of the bill would amend section 124(d) of the Economic Opportunity Act of 1964 to permit a student under the work-study program to be employed for an average of fifteen hours per week. The existing law provides that no student shall be employed under the work-study program for more than fifteen hours in any week.

Section 2 of the bill amends section 124(f), which provides a decrease in the maximum Federal share of the compensation paid to students under the work-study program from 90 to 75 percent beginning with fiscal year 1968. The proposed legislation would provide for a stepped-down Federal share of 85 percent for fiscal year 1968, 80 percent for fiscal 1969, and 75 percent thereafter.

The Administration's recommendations contained in the proposed Higher Education Amendments of 1967 (S. 1126) provided for an amendment to section 124(d) which would authorize the Commissioner of Education to issue regulations under which students who are attending classes during vacation periods or comparable periods of additional or nonregular employment may be employed under the program for up to 40 hours per week during such periods.

The amendment contained in S. 2151 and H.R. 11945 authorizing some variation in the hours of work per week permitted students under the work-study program provides a reasonable degree of flexibility while retaining the essential safeguard that students devote the major portion of their time to studies during periods when classes in which the student is enrolled are in session.

Under the Administration proposal the Federal share of compensation for work-study students would be fixed at 80 percent for fiscal years beginning with fiscal year 1968. It is the Department's belief that under the 20 percent institutional matching requirement the funds available for the work-study program could cover more students than the higher Federal share, without imposing an undue burden upon the institutions. In view of the fact that the 1967–68 academic year is upon us and institutions must be able to make commitments to students who wish to participate in the work-study program, we would not object to the enactment of the proposed legislation. We do, however, hope that when the proposed Higher Education Amendments of 1967 are acted upon the legislation will fix an 80 percent Federal share for future fiscal years, rather than allowing the share to drop to 75 percent. We are advised by the Bureau of the Budget that there is no objection to the

presentation of this report from the standpoint of the Administration's program, but the Bureau points out that under the Federal share provided by S. 2151 and H.R. 11945 fewer sudents would be assisted with the Federal funds available for fiscal year 1968 than under the Federal share proposed in the Administration bill, S. 1126.

Sincerely,

SAMUEL HALPERIN,
Acting Assistant Secretary.

AMENDMENTS TO THE COLLEGE WORK STUDY PROGRAM (S. 2151)

(Statement of John F. Morse, Director, Commission on Federal Relations, American Council on Education before the Subcommittee on Education, Committee on Labor and Public Welfare, August 25, 1967)

Mr. Chairman and members of the subcommittee, I am John F. Morse, director of the Commission on Federal Relations of the American Council on Education. The Council is, as you know, an association with a membership of 1500 accredited institutions of higher education and other educational associations.

I should like to discuss with you S. 2151, a bill to amend the provision respecting matching requirements for the college work study program and to commend the chairman of this committee for introducing it. Very briefly, we support the bill and would urge its speedy enactment, so that its provisions may be in effect at the beginning of the new college year.

Unless this bill is enacted, the required non-Federal matching share for the work study program will rise from its previous level of 10 per cent to 25 per cent. Technically, in fact, the 25 per cent requirement has been in effect for a week, but its impact will not be felt until classes resume.

Actually, Mr. Chairman, the position of the American Council on Education is that the non-Federal matching requirement should be retained at 10 per cent. I should like to call your attention to several factors that have led us to that position.

1. The law requires, quite properly, that institutions maintain, and pay 100 per cent of the cost of, their own basic work program at a level equal to the average amount expended in the previous three years.

2. The law prohibits, quite properly, the replacement of employed workers by students employed under work study.

3. The result is that the work study program is superimposed on institutions' normal employment pattern. There can be no doubt that a great deal of important work has been accomplished under the program, but the prime purpose has been to provide financial aid to needy students. As we see it, there is little more reason to require an increased non-Federal share in this program than there would be in the NDEA loan program.

One new consideration, which has considerable bearing on your deliberations, has arisen since the original work study act was passed. Since February 1, 1967, colleges and universities have been included as enterprises covered by the Fair Labor Standards Act. So far the impact of this coverage has not been severe, except in the matter of greatly increased expense for recordkeeping. As a newly covered enterprise, the minimum wage at the present time is $1.00 per hour, and many, possibly a majority of institutions, were paying this already.

However, the minimum wage will go to $1.15 on February 1, 1968, and will increase an additional 15 cents annually until it reaches $1.60. The institutions must, of course, meet this increase for their permanent work force and for students employed in their regular employment program. They will be hard put to it to meet the double escalation of minimum wage and an increase in the matching percentage for their work study program. As I pointed out to you in a recent letter, Mr. Chairman, at present, institutions can provide financial aid work opportunities at a cost to themselves of ten cents an hour. But if non-Federal matching remains at 25 per cent, this figure will rise to 33 cents an hour by 1969.

We hope, therefore, that you will regard the provisions of S. 2151 as a means of providing immediate relief to our institutions, that you will take the long-range problem under further careful consideration.

The bill before you calls for an increase of required matching to 20 per cent in FY 1969 and presumably to 25 per cent in FY 1970. At the present time, however, there are no authorizations for the program in either 1969 or 1970. It seems clear, therefore, that this committee must continue to weigh the merits of the program, probably as you consider the more comprehensive bill of proposed amendments to various higher education programs contained in S. 1126. If we are given an opportunity to testify on that bill, we shall urge a return to the 10–90 per cent ratio of non-Federal to Federal funding of the work study program.

I am grateful for this opportunity to appear before you and shall be happy to answer any questions.

Attachments:

ASSOCIATION OF AMERICAN COLLEGES,
Washington, D.C., August 22, 1967.

Hon. WAYNE L. MORSE,
Chairman, Subcommittee on Education, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR SENATOR MORSE: I am writing to you at this time regarding S. 2151 concerning matching requirements for the college work study program. Mr. John F. Morse of the American Council on Education has shown me a copy of his statement, which he expects to present to your Subcommittee on Education on August 25. His statement is an excellent one, and I am fully in support of it.

With kindest regards,

Sincerely yours,

RICHARD H. SULLIVAN,
President.

NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES,
Washington, D.C., August 23, 1967.

Hon. WAYNE MORSE,
Chairman, Subcommittee on Education, Senate Committee on Labor and Public Welfare, New Senate Office Building, Washington, D.C.

DEAR SENATOR MORSE: This is to say that I have read the testimony of John F. Morse of the American Council on Education, on S. 2151, as prepared for delivery on August 25, and that it reflects the position of the National Association of State Universities and Land-Grant Colleges.

I have also been in touch with Mr. Allan Ostar, Executive Director of the Association of State Colleges and Universities, who is out of the city at present, and he has authorized me to say that Mr. Morse's statement reflects the views of the Association of State Colleges and Universities as well.

Correspondence with and personal discussions with individuals from a wide range of our member institutions strongly indicates that to let the statutory increase in institutional matching from 10 to 25 per cent remain in effect will have a substantial adverse effect on accomplishment of the purposes of the Act.

Sincerely,

RUSSELL I. THACKREY,
Executive Director.

STATEMENT IN BEHALF OF THE NATIONAL EDUCATION ASSOCIATION PRESENTED BY MRS. MARY CONDON GEREAU, AUGUST 25, 1967

Mr. Chairman and members of the committee, the National Education Association appreciates this opportunity to present the Association's views on S. 2151 to amend the College Work-Study Program.

In the interest of time we urge that the Senate concur with the House bill, HR 11945, so that this very worthwhile student aid program can be continued during the coming school year. Institutions of higher education need action now so that they can be prepared to assist students at the time of registration for the fall term beginning in mid-September.

We are pleased that the House has reduced the institutions' matching requirement to 15%, rather than maintaining the 25% as provided in the present law. We urge, however, that when the Higher Education Amendments, of which the work-study program is a part, are considered, that the initial matching formula of 90–10 be made permanent.

Experience indicates that this type of student aid is extremely valuable, not only to the student but to the institution and to the community. Those who participate would be unable to enroll in college without this program. The work performed is of benefit to the student as well as to the institution or community he serves.

It is also of benefit to the nation because it serves to increase the supply of brainpower by making it possible for economically disadvantaged young people to become competent, professional, constructive members of society.

The 90–10 matching formula is not unreasonable. It is in line with the 90–10 matching formula for federal highway funds, for example. Certainly it is of equal, if not greater importance, to provide assistance to the development of the nation's skilled manpower.

The increase in the percentage of funds to be provided by the institution will serve only to curtail the program, thus depriving many deserving young people of the opportunity, through self-help, to achieve a college education. The compensation the students receive must be in keeping with the prevailing minimum wage laws—a sound policy we agree. However, with the increase in the minimum wage the colleges, especially those operating under biennial appropriations from the State legislatures, have more demand on their funds which are earmarked for labor costs. This fact, coupled with the increased percentage of matching funds required in the present law, can only result in reducing the number of students who can be aided. Private non-profit institutions are caught in a similar financial bind. The victims are the disadvantaged students.

We urge, therefore, that the 90–10 matching formula be established in place of the graduate scale provided in the present law.

S. 2151 also provides that the students' obligation be adjusted to provide for an *average* of 15 hours work per week during a school term rather than limiting them to 15 hours each week. This is a practical proposal in the interest of the student—and the institution. It provides flexibility and permits the student, in cooperation with the employer, to adjust his work schedule for the maximum benefit to his program of study. As we all know, some weeks are tougher than others in college.

Again, Mr. Chairman and Members of the Committee, we appreciate this opportunity to make these brief comments in support of further strengthening one of the best student aid programs ever enacted by the Congress.

Mr. RANDOLPH. Mr. President, the situation with reference to the work-study program has been clearly set forth by our distinguished chairman of the Education Subcommittee of the Committee on Labor and Public Welfare. I shall not detain Senators on this matter, except to say that of the approximately 2,200 colleges and universities in the

country, more than 1,700 of those institutions are today participating in these work-study programs. The continuity of the program must not be broken; and the matter of the time element has well been set forth by the Senator from Oregon.

Of particular interest to me is the acceptance of this program, in the State of West Virginia, by some 20 universities and colleges. We know the value of the program, the participation of the students, and the benefits accruing to the institutions themselves. This legislation is in the best tradition of the overall program, such as that sponsored by the Senator from Oregon and others who have joined with him in the Committee on Labor and Public Welfare.

Mr. President, I ask unanimous consent that a table setting forth these institutions of higher education in West Virginia be printed at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

WEST VIRGINIA INSTITUTIONS PARTICIPATING IN THE COLLEGE WORK-STUDY PROGRAM

Alderson-Broaddus College, Philippi.
Beckley College, Beckley.
Bethany College, Bethany.
Bluefield State College, Bluefield.
Concord College, Athens.
Davis and Elkins College, Elkins.
Fairmont State College, Fairmont.
Glenville State College, Glenville.
Marshall University.
Mountain State College.
Ohio Valley College, Parkersburg.
Potomac State College of West Virginia University, Keyser.
St. Mary's Hospital School of Nursing, Huntington.
Shepherd College, Sheperdstown.
West Liberty State College, West Liberty.
West Virginia Institute of Technology, Montgomery.
West Virginia State College, Institute.
West Virginia University.
West Virginia Wesleyan College, Buckhannon.
Wheeling College, Wheeling.

Mr. RANDOLPH. Mr. President, I support this act, which is intended to help our colleges and universities to continue making it possible for needy students to have the jobs they must have to stay in school. For example, in West Virginia, 20 colleges—both public and private, large and small—and I may add that one of these is a hospital school of nursing—have been given enough funds to be able to employ nearly 2,500 needy students, if they can provide the necessary matching money.

But it would create a serious burden on the financial resources of these colleges and universities, particularly the more needy ones, to come up with an amount of matching money which is more than twice the amount they have had to contribute before. Many of them will not be able to find that much extra matching money and this would mean that many needy students would lose their jobs, because their colleges cannot increase their matching amounts as much as would be necessary.

Under this act, the matching funds which the colleges would have to provide would be only 50 percent more, instead of 150 percent more.

I think it vital that we take this necessary action in order to make it possible for this important and useful program to continue at an undiminished level. The assistance to these needy students enables them to do work which is of benefit to their colleges, their communities, and themselves.

As an example, I would like to point out that students at West Virginia University are working in four different community action programs, two YMCA's, three libraries, three city governments, and a rural hospital in West Virginia, as well as providing assistance to the professors and the administration of West Virginia University. Students at other institutions in West Virginia are engaged in similar worthwhile projects.

This act will make it possible for work of this type to be continued.

Mr. JAVITS. Mr. President, I ask unanimous consent that all members of the committee may have leave to file statements of individual views in connection with the bill now before us.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FULBRIGHT. Mr. President, I join the Senator from Oregon in his statement on the pending bill. I hope and urge that it be acted upon favorably. It must be approved, if the work-study program is to survive.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendments to be proposed, the question is on the third reading of the bill.

The bill (H.R. 11954) was ordered to a third reading, was read the third time, and passed.

Mr. MORSE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MARRINER S. ECCLES SPEAKS ON VIETNAM

Mr. FULBRIGHT. Mr. President, recently the distinguished former chairman of the Board of Governors of the Federal Reserve Board, Hon. Marriner S. Eccles, spoke to the Commonwealth Club of California, on August 11, 1967, in San Francisco.

His remarks regarding our involvement in Southeast Asia are very thoughtful and profound. I think they warrant being printed in the RECORD, and I commend them to the attention of my fellow Senators.

I ask unanimous consent that the address of Marriner S. Eccles before the Commonwealth Club of California at the Sheraton Palace Hotel, San Francisco, Calif., on August 11, 1967, entitled "Vietnam—Its Effect on the Nation," be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

VIETNAM—ITS EFFECT ON THE NATION

(By Marriner S. Eccles at the Commonwealth Club of California, San Francisco, Calif., Aug. 11, 1967)

The Kosygin visit to this country has given us all cause to seriously think about the Soviet Union, our relationship to it, and the relationship of both of us to the greater and more compelling world problems. Upon the solution of these problems hangs the survival of both the United States and Russia, and perhaps the world. As Senator Fulbright so aptly stated: "America is showing signs of that arrogance of power which has afflicted, weakened, and in some cases destroyed great nations in the past." Never before has there been such valid reason for the fears that beset us. Never before has there been reason to feel that the human race was speeding along the road to possible oblivion.

The most important issue before the country today is our involvement in Vietnam. It affects every facet of our lives and our relationship to the rest of the world. Are the sacrifices imposed justified by the stakes of war? What are the reasons and justification, if any, for our involvement in Vietnam?

For the past twenty years our government has believed that communism intends to conquer the world—by force, if persuasion does not succeed—and that it is the duty of the United States to save the world from that fate. The American picture of aggressive communism is unreal.

The President believes that aggressive monolithic groups are making war in South Vietnam. Under the Truman Doctrine of Containment, communism has continued to spread. It has advanced through revolutions rather than by military aggression. But while communism has been advancing, the power of Russia over the communist world has been waning. It is evident that communism is not a monolithic world power. Russia has its differences with the Yugoslavs. The Chinese and Russians have conflicts of national interest which override communism. The threat of a united communist world does not exist. National rivalries divide the communist states as well as democracies.

It is apparent that communist countries are as intensely nationalist as others. They crave independence and resent interference. They will fight against domination—from whatever source: either capitalist or other communist country.

The Administration believes that the war in Vietnam is being made solely by communist intervention from without. This does not explain the tenacity of the Viet Cong. They are not Russians, Chinese or North Vietnamese communists; they are South Vietnamese. They are fighting for national liberation and unity of South Vietnam: the causes for which others, including Americans, have fought.

We see every rebellion as the result of a deep plot out of Moscow or Peking, when it usually is the result of crushing poverty, hunger and intolerable living conditions. The aim of revolution, no matter what ideology, is to achieve the values of self-determination, economic security, racial equality and freedom. Let us not forget that while our road was not via communism, we did, as a nation, emerge from revolution.

We might as well face it: there may be more communist countries in the world. But we need not panic at this. Communist nations vary widely; each has a different version of communist theory to fit its own problems. The more of these countries there are, the greater their diversity.

Communism is only part of a broad movement: the rising of desperate people in Asia, Africa, and Latin America. We crush insurrection in one place, only to find a revolution—whether communist, socialist or nationalist—springing up somewhere else. With military bases around the world and ships in every ocean, a revolution takes place in Cuba, 90 miles off our shore.

How can we reconcile what we are doing to the South Vietnamese under the guise of saving them from communism? We have destroyed vast areas of their country. We have killed, wounded or burned more than one million children, as well as countless parents, brothers, husbands and sons. The family has been smashed. We can only guess at the terrible long-range social effects that will re-

sult from our actions. No wonder the great majority of the people do not consider us their savior, but hate us and want us to get out of their country.

Despite this, the United States military has increasingly taken over the war. In 1965 one American was killed for eight South Vietnamese; in 1966, one for two; and to date in 1967, one for one. U.S. casualties through 1966 were over 8,000 killed and almost 38,000 wounded. Projected for 1967 alone, based on actual figures for the first six months: 11,190 killed; 64,264 wounded, making a projected total to the end of this year of 19,344 killed and 102,002 wounded. We have lost 832 planes as well as hundreds of helicopters.

Based on the following reports by McNamara it is apparent we are making little progress after three years of fighting and cannot win a decisive victory:

1964—"McNamara told Congress that the U.S. hopes to withdraw most of its troops from Vietnam before the end of 1965."

In 1965—He said, "It will be a long war."

In October, 1966—He said, "I see no reason to expect any significant increase in the level of the tempo of operations in South Vietnam."

Communist strength in South Vietnam has increased from 120,000 in January, 1965, to an estimated 298,000 at present. However, North Vietnam has committed only one-fifth of their regular army. Based on the estimate that guerrillas must be outnumbered four to one, the communists have more than matched the American buildup to 476,000 now. It is no wonder that General Westmoreland claims he needs five additional U.S. divisions, more than 200,000 men.

Tuesday the press reported General Van Thieu said: "We have not enough Allied soldiers which we need to win the war. We need a big amount of troops to be everywhere, to do many jobs at the same time." At this time the President might reconsider his September, 1964, statement: "We don't want our American boys to do the fighting for Asian boys. We don't want to get involved . . . and get tied down in a land war in Asia."

During the past two years Russia has added to the enemy arsenal in South Vietnam rockets, artillery, heavy mortars, automatic infantry weapons and flame throwers, while in North Vietnam she has supplied fighter planes and antiaircraft guns. She is reported to be supplying 75% of all military supplies and has said she will continue to furnish all military aid necessary. The Chinese are furnishing part of the small arms, clothing and food, and have said they will assist North Vietnam with troops whenever requested to do so. Both countries have indicated they would enter the war, if necessary, to keep the North Vietnamese and the Viet Cong from being defeated. It is quite apparent that neither Russia or China is willing for the United States to achieve a victory over the communists and to establish a powerful military base on the mainland of Asia.

If Russia were conducting daily bombing raids against an American ally, as we are doing against a Russian ally, it is inconceivable that we would limit ourselves to providing only military equipment, as they are doing.

What is the effect of our Vietnam policy on the nation? It is responsible for the most serious economic, financial and political problems in this country. It is causing the huge federal deficit which, without a tax increase, could run to more than $25 billion. In order to curb the resulting inflationary pressures the government has proposed a 10% surtax on individuals and corporations which, if enacted, would reduce the deficit, on an annual basis, between $9 and $10 billion.

This war is directly causing a substantial increase in the deficiency in our international balance of payments, which is already serious as we are by far the world's largest short-term debtor, now owing nearly $26 billion. It is reducing our free gold to meet these obligations to less than $2 billion.

It is creating inflationary pressures in nearly every field—increased costs of living, going up at about 3% per year—a great shortage of skilled workers—increasing strikes and exhorbitant demands by union labor—and higher interest rates, in all categories, due to the heavy demand for credit.

The costs of war do not end with the cessation of hostilities. Excluding the Vietnam War, at the end of 1965 we had approximately 20,600,000 veterans. Total veterans' benefits paid to the end of 1965 were $134 billion; by the end of this year it is estimated they will be $147 billion. In 1966 we were spending in excess of $6 billion per year for veterans' benefits, and the Korean War alone is costing more than $700 million a year. The annual operating expense of the Veterans' Administration hospitals has now passed the billion mark. In addition, during 1965 the land and construction costs of medical facilities was $1.418 billion. Veterans costs will grow rapidly as long as the war lasts, and will continue for decades. The ultimate astronomical expense is difficult to conceive. In the financial sense, a war is never over.

The real tragedy is not financial, it is the useless suffering of the millions of our people whose sons, husbands and brothers are drawn into this useless conflict unwillingly and are killed and maimed for life—*not* in defense of their country—but because of our incompetent and ill-advised leadership.

I believe Russia is glad to see us bogged down in Vietnam, diverting multi-billions of our resources and millions of our manpower, while she is rapidly gaining in the nuclear arms race. While the U.S. lags in its nuclear defense, the Soviets are rushing ahead. It is believed today's nuclear balance has already shifted to Russia.

At a time when defense against missile attack is still in the talking stage in this country, the Soviet Union is racing ahead with unprecedented speed.

Of even greater concern to us at this time is China's rapid growth in the development of nuclear weapons. It is now estimated that between 1972 and 1975 China will be a first-class nuclear power with a full arsenal of H-bombs and war heads. ICBM will be in production with an intercontinental range of 6,000 miles. This would hit most of the world; the northern stretches of the U.S., Los Angeles, San Francisco, Chicago and Detroit would be particularly vulnerable. Meanwhile, we are spending over $2 billion a month on Vietnam instead of being prepared to cope with the rapidly growing atomic strength of Russia and China.

Our foreign aid since World War II has been $128 billion—$91 billion in economic aid and $37 billion in military aid—with dubious results in many instances. The United States is pledged to defend 43 countries under specific treaties and agreements. In addition, a commitment to stop aggression covers all the countries in the Middle East, and any country where the U.S. has a military base is promised support.

While we've been spending tens of billions abroad, our cities are exploding in violent protest as a result of our injustice, and neglect, and failure to meet unfilled promises of the "Great Society." Our total estimated Vietnam and foreign aid budget this year is $30 billion; whereas, the Great Society budget is approximately 40% of that amount —$12.5 billion—which is half of what we spend in Vietnam alone.

Senator Percy says: "If we continue to spend $66 million a day trying to save the 16 million people of South Vietnam while leaving the plight of 20 million urban poor in our own country unresolved—then I think we have our priorities terribly confused."

Public and Congressional reaction relative to our world-wide involvement, especially in Vietnam, is forcing the Administration to reconsider its role as world policeman.

The horrible Vietnam debacle, tragic as it is, may yet be a blessing in disguise if it forces us to recognize our staggering failures at home. Runaway crime, delinquency, the riots in our cities, loss of respect for law and order, and the rebellion of frustrated youth—all spring in part from this. No wonder Russia had this to say about the U.S.: "Only in mockery can the word 'free' be applied to a society which cannot provide tolerable living conditions and democratic rights to a considerable part of its population."

It is tragic that the most powerful country in the world, with 6% of its population and producing 40% of its wealth, should have lost the respect of most of the world. The world, with few exceptions, would like us to leave Vietnam. The continued confidence and good relation with Japan, our greatest asset in Asia, is dependent upon our getting out of Vietnam. The same is true with all the Western European governments and our friends in Latin America. We cannot survive, no matter how powerful we are, in a world without friends.

With these disastrous effects on the nation to continue our ruthless pursuit in Vietnam is madness. To withdraw is sanity. The consequences of withdrawing cannot possibly be as disastrous for this nation as pursuing our present course. The greatest service we could render the Vietnamese is to withdraw from their country, leaving them to negotiate a conclusion to the war, which is their right.

There is something intrinsically wrong with the idea that the United States should participate in negotiations to decide the future of Vietnam. We are an outside power, which is true also of China and the Soviet Union. To have the future of Vietnam decided by outside powers is a violation of self-determination. Whatever negotiations go on should be among the Vietnamese themselves—each group negotiating from its own position of strength, uninfluenced by outside powers.

If the U.S. insists on negotiating, it should be with Russia and China, as the sinews of war are being furnished by these countries, without which the war would collapse. In any case, the United States cannot negotiate strength for any future segment of government in South Vietnam. The presence of the United States can only distort the true balance of forces, and only a settlement which represents this balance can bring about a stable government.

No one seems to be able to show in what way a communist Vietnam would be bad. Under Ho Chi Minh, Vietnam would be quite as likely to enforce its independence as has Tito in Yugoslavia, Rumania, and other Russian satellites. Ho Chi Minh is unquestionably the choice of the Vietnamese people, both North and South. Both President Kennedy and Eisenhower have stated that had the election called for under the Geneva Treaty been held in 1956, Ho Chi Minh was so popular he would have won by a large majority. While Ho Chi Minh is a communist, he is not Russian, he is not Chinese, he is Vietnamese—and Russian, Chinese and Vietnamese communism may differ widely. It is even possible that our best interests would be served by having Ho Chi Minh's communist regime as a buffer against the Chinese communists.

History does not show that a nation that liquidates a bad venture suffers from loss or prestige. Proud, powerful England surrendered to the thirteen American colonies and did not suffer for it. More recently, France moved out voluntarily from Algeria and Indochina. Today she has more world prestige than ever before. Russia pulled her missiles out of Cuba; her prestige has not suffered.

Hans Morgenthau has written: "Is it really a boon to the prestige of the most powerful nation on earth to be bogged down in a war which it is neither able to win nor can afford to lose? This is the real issue which is presented by the argument of prestige." We

should be less interested in saving face and more interested in saving lives. It is possibly not easy for a proud nation to admit it has blundered, but throughout history great men and nations have gained stature by so doing.

Getting out of Vietnam will enable us to re-establish a friendly relationship with Russia and thereby bring about a balance of power in the world, which would tend to deter any aggressive policy on the part of China. So long as we are in Vietnam, Russia and China consider us their enemy. Kosygin made this crystal clear in his statement before the United Nations and in his conference with Johnson at Glassboro.

We should also recognize China diplomatically and open our doors to trade and travel and help bring her into the United Nations. We should no longer ignore one-fourth of the world's population as though it did not exist.

In conclusion: What can we expect from the stricken Vietnamese nation but hatred, deep and abiding? Their farms and villages have been laid waste, their families scattered to the winds. Their husbands and sons are dead, maimed or missing. And children, orphaned and grotesquely burned, have been seen running through the rubble in packs.

We can never blot out the deed which stands as a testimony of man's inhumanity to man. Nor can we really make amends for the enormity of our crime against these people, who know us not, but whom we have chosen to save from communism.

But we can try. We can make a beginning. And, in conscience, how can that beginning be less than immediate withdrawal of our evil presence, because that is what it has proved to be in the lives of the Vietnamese. And we can humbly, with vigor, and never ceasing, do everything in the power of a rich and repentant nation to heal, and rebuild, and reassure.

The Vietnamese will never forget us, and it is to be hoped that we will never forget the Vietnamese. Because it is this Vietnam tragedy which has shown us ourselves as others see us: a nation to be feared instead of loved, flushed with pride and sure of omnipotence. An arrogant nation, not qualified to handle power wisely.

While the hour is late, it is not yet impossible to turn the page. Men and nations have made new beginnings before. And out of defeat, there has often come victory—and what a victory it could be for this nation, so bountifully endowed—to reverse its image, make itself loved and admired and revered, so that it could stand forth before the emerging peoples around the globe, as an example of what they might wish to become.

But the road is long—and we must win much forgiveness. So let us begin.

(I am indebted to Arnold Toynbee and Howard Zinn for the assistance I received from reading their excellent articles.)

QUO VADIS, AMERICA?

Mr. FULBRIGHT. Mr. President, I have in my hand an article written by Mr. J. J. Singh, with whom many of the Members of this body are acquainted, who lived in the United States for many years, but is a citizen of India, and one of the leading citizens of that country.

In this recently written article, he has expressed his views about conditions in Asia, and I ask unanimous consent to have printed in the RECORD the article entitled "Quo Vadis, America?" written by J. J. Singh.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

QUO VADIS, AMERICA?

(By J. J. Singh)

I lived for 33 years in the United States. I loved the country and more so, I loved the people. I loved the people because my experience was that they were God fearing people and, by and large, decent and upright and far from being colonialist-minded as were some of the Europeans, such as the British, French, Dutch, Spanish, Portuguese, Germans, and so on. As a matter of fact, a very large section of Americans wanted to be left alone and did not want to enter either the First World War or the Second. I was in America during the Second World War and I recall how strong the "America First" movement was, whose symbol was the famous Colonel Charles A. Lindbergh. I remember attending meetings at Madison Square Garden in New York which used to be packed to the rafters by thousands of enthusiastic crowds whose sole ambition was not to be involved in European wars.

Americans having won their freedom from a colonial power were congenitally anti-colonialists. It was because of this basic anti-colonial attitude of the vast majority of Americans that a few Indians living in America were able to win the support of a powerful segment of American society for India's freedom from British colonial rule. It was easy to persuade Americans about the justness of India's cause by simply reminding them that they, too, once were subject people and they, too, fought against the British and that all we, Indians, wanted to do was to throw off the foreign yoke and be free like the Americans. We told them that American revolutionary cries like Patrick Henry's "Give me liberty or give me death" sustained and encouraged Indian freedom fighters.

The natural abhorence of Americans for one people to rule over another made the task of the few Indians fighting for India's freedom somewhat easy and we scored rather well notwithstanding the well-oiled and well-organized propaganda machinery of the British spread all over the United States.

Besides this, I found the average American a good citizen, a good parent, and a person who wanted to mind his own business. For a long, long time, a wrong picture of Americans has been portrayed abroad—through their extravagant movies, fashion and other slick magazines, and the over-bearing postures of many travelling Americans.

It is true that there are fast living sets in the major cities of America and some of the suburbs of these cities are well-known for the week-ends of "booze and illicit sex." But go away a few miles from these centres, and you will find the average American family living in quiet surroundings, taking care of their back gardens, playing with their children, and keenly interested in their bringing-up, and loving their pet animals.

This was the pleasant, friendly and true America which I saw and knew for so many years.

Therefore, the America that seems to be unravelling now—through its acts of bestiality, virtual genocide, cruelty and immorality in Viet Nam—has given me a deep shock.

What are the Americans doing in Viet Nam? What is their objective? Only a moron would accept the oft-repeated arguments that the Americans are in Viet Nam to stop world communism from spreading not only in South-East Asia but from there to the rest of the world. This is just nonsense. The "domino theory" of one country falling after another could have been easily checked by helping the neighboring countries economically—something that would have cost the American tax-payer less than five percent of the colossal cost of the war in Viet Nam.

There might have been some justification for the fear of world communism in the Stalin era, but where is this monolithic structure of world communism today? The two major communist powers are at each other's throat. And one of them is torn by internal rivalries and strife. Who any more listens to the cry, "Workers of the world, unite!"? This might have had some significance and meaning decades ago, but not today. Where is this "revolution of the proletariat" in evidence any where?

In Viet Nam, particularly, there was no danger of world communism. It is asinine to think that an independent Viet Nam under President Ho Chi Minh would have allowed the Chinese to take over the country. Everybody knows that Viet Nam, like all small countries near a colossus, was distrustful of China, and especially resentful of the Hans with their "superior human species" theory and unbearable arrogance. But for American interference, Ho Chi Minh would have been an Asian Tito and Viet Nam an Asian Yugoslavia. What would have been wrong with that? Have we forgotten that the first blow given to Stalinism was by Marshal Tito, a communist? No true democrat should object to a nationalist communist regime. Real belief in democracy means that you give freedom to others to think the way they do. As Voltaire said, "I disapprove of what you say but I will defend to the death your right to say it." That is the meaning of democracy. If democracy begins to deny freedom to others to think differently then that is not democracy.

There are all kinds of regimes today—dictators, imperialists, communists, socialists, and so on. But so long as these regimes want to practice their particular form of ideology or want to practice special forms of socio-economic theories within their national boundaries and do not indulge in proselytization by force, why should any big or small power interfere in their internal affairs?

Here is India, we are 500 million people. Suppose some day, we decide to go communist. What are the Americans going to do—send over 50 million marines to save us from going Communist? And if they were to do this, would they succeed? Of course not.

Communism or any other ideology cannot be stopped by bullets. It has to be stopped by superior ideas; and not only ideas but by living up to and fervently practicing the ideas enunciated and believed in. I am a great believer in the principles of democracy. But that belief encourages me to let others have the freedom of believing and practicing in what they believe, including communism. I am not afraid of communists because of my intense faith in democracy. It is those who lack faith in their own professed beliefs who think that every communist is eight feet tall and is to be dreaded.

The tragedy of Viet Nam is that the ranks of democrats all over the world have received a rude shock. The display of this naked, brute American power in Viet Nam has begun to create doubts whether American professions in democracy are sincere; and whether they are not turning out to be wolves in sheep's clothing. Because of American actions in Viet Nam people are asking if America is building up a new empire. They feel that power rests in different hands in America today, that the decent peace-loving Americans are being fooled by the high-powered medias of information into the belief that the fight in Viet Nam is against world communism and to protect "their way of life." And yet most of the world believes that the Vietnamese who are fighting against the Americans are freedom fighters and are laying down their lives for the freedom of their country—just what the Americans did in 1776.

Is America setting out for the conquest of the world in the name of democracy? If that is the case, then let America beware that like all other aspirants of world conquest, it, too, will eat the dust and in this day and age very quickly too.

There is something else that the Americans have done in Viet Nam which is endangering the future of the world. By their acts and behaviour in Viet Nam, the Americans have let loose a spirit of violence and immorality all over the world. Have the Americans won the affection and respect of even the South Vietnamese whom they are supposedly pro-

tecting from the horrors of a communist regime? Far from it. The South Vietnamese collaborators may not have the courage to say so to the Americans but how can any South Vietnamese have respect for the Americans when to quote an American newspaperman, "Saigon is nothing but a big American brothel." When the Vietnamese girl sells her body to the American soldier, either for the lure of American dollars or because the presence of the American army of occupation has raised prices to such an extent that she has to prostitute her body to be able to give enough food to those who depend upon her, she must deep down in her heart loathe the marauders of her modesty and decency. And what about the brother, the father, the mother and sisters of the girl? Their hatred of the American debaucher must be even greater than the debauched girl herself.

I recall that in the Second World War, and even though the behaviour of American soldiers in England was far better, most Englishmen hated the presence of the Americans in England and referring to the Americans, they used to say, "They are over-fed, oversexed, and are over here."

Talking of the spirit of violence unleashed by the brutal killings of men, women and children in Viet Nam, I can see this spirit spreading all over. And I feel that the vehemence and extremism that is being today evidenced in the racial riots in America is due to Viet Nam.

We, in India, have also been affected. The other day, when the news came of the ambush of our army men by hostile Nagas, an important and normally civilised member of Parliament said, "We should crush the Nagas. We should bomb their homes and finish them off." A listener said, "How can you do this. What will the world say?" The member of Parliament replied, "Who cares about the world? Are the Americans paying any heed to the world? If they can napalm bomb thousands and thousands of Vietnamese, why can't we do the same to the Nagas?" This is what American action in Viet Nam is doing to the rest of the world.

Even if the Americans win militarily in Viet Nam and some day the sledge hammer will get the gnat, in the eyes of the world, they will have become moral lepers.

As a sincere friend of America, all I can say to them at this stage is, "My friends, I cry for you. And I cry for myself too, because I have loved you in the past."

THE POVERTY PROGRAM

Mr. MORSE. Mr. President, I rise as a self-appointed witness for the administration and for the Senator from Pennsylvania [Mr. CLARK], as well as for Mr. Califano, of the White House staff, a close aide of the President, in regard to such matters as the subject matter I shall now discuss, and for Mr. Shriver, the Director of the poverty program.

I refer, Mr. President, to the controversy which has been raging in the newspapers over an alleged disagreement among the Senator from Pennsylvania and members of the Committee on Labor and Public Welfare, and the administration. These stories have referred specifically to the President of the United States, to Mr. Califano, to Mr. Shriver, and to Senator CLARK.

Mr. President, certain facts in this matter have not been reported accurately in the press. In the first place, the President of the United States needs no statement on my part calling attention to the great record of statesmanship he has manifested time and time again, right up to the present moment, in regard to a poverty program. The President seeks a strong poverty program. He has recommended a comprehensive poverty program, and one would think that the inaccuracy of newspaper stories alleging that the President of the United States does not desire poverty legislation, or that Mr. Shriver or Mr. Califano does not desire it, would be obvious to everyone.

What the administration did was to send up a poverty bill, and the poverty bill was referred to the appropriate committees of the two Houses of Congress. We have been considering the measure on the Senate side.

Some amendments have been suggested. The fact that questions have been asked in regard to some of those amendments from the White House level does not mean that the White House will be opposed to whatever poverty bill is finally passed by Congress.

Apparently the cause for the controversy is that some suggestions have been made from administrative officers both in the poverty administration and in the White House. True, Mr. Califano raised some question as to whether the adoption of any of those amendments might jeopardize the bill.

That is the responsibility and obligation of the administration, to raise such questions when they come to the conclusion that some amendment might result in jeopardizing the bill. That is all that was done in the conference that was held in Mr. Califano's office.

I have worked closely with Mr. Califano on a good many emergency matters. I do not know of anyone more dedicated to the legislative program of this administration or that is more dedicated to the President of the United States than is Mr. Califano. I want to testify here this afternoon in the statement that I make that it is unfair to Mr. Califano to give the impression that he is following any course of action that would be inimical to the passage of a poverty bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MORSE. Mr. President, I ask unanimous consent that I may have such time as I need to finish my statement.

The PRESIDING OFFICER. Without objection, it is so ordered .

Mr. MORSE. Mr. President, I can testify that Mr. Califano is as strong an advocate of a poverty bill as is the senior Senator from Oregon. If a stronger advocate of a poverty bill than the senior Senator from Oregon can be found, please name him.

That does not mean that Mr. Califano would recommend every amendment I might support, because he has different obligations than I have. He has the obligation of seeking to help the administration obtain the passage of a poverty bill. It takes one vote more than 50 percent of the membership in each House to get such a bill passed.

I want to express on the floor of the Senate my complete confidence in the services of Mr. Califano and his dedication to the President on any program of this administration. Furthermore, Mr. Shriver is not in any way a party to or responsible for any misunderstandings that may have developed in connection with the alleged controversy that has been reported in the press over poverty legislation.

Certainly, Mr. Shriver needs no testimony from me or from anybody else by way of seeking to supply opinion proof as to his dedication to a poverty legislative program.

The only discussions that took place were discussions as to what provisions in a poverty bill had the best chance of enabling the bill to be passed when it comes to a final vote in both houses.

There has been some newspaper comment about a document that was circulated among some members of the Senate Committee on Labor and Public Welfare. Mr. Califano did not write the document. Mr. Shriver did not write the document. It just happens to be one of the documents that sometimes contains unfortunate error.

It was written at the staff level in the poverty program. And I would be the first to say that unfortunate language was used in the document, which, in effect, raised the question as to the effect of the legislative program on the next election.

That document did not speak for the President, I can assure the Senate. It did not speak for Mr. Califano. It did not speak for Mr. Shriver.

Therefore, it would be most unfortunate if this unusual document as far as the President, Mr. Califano, and Mr. Shriver are concerned, should be blown up out of proportion and given partisan consideration.

May I say a word about the Senator from Pennsylvania. I had hoped that the distinguished Senator from Pennsylvania [Mr. CLARK] would be present, because I had a conference with him earlier this morning. I am sure the statements I make would be shared by him if he were present on the floor of the Senate.

There is no conflict between the Senator from Pennsylvania and the President of the United States or Mr. Califano or Mr. Shriver in regard to the poverty program, as one would judge after reading newspaper accounts of it.

There was some break—I think this would best describe it—in the line of communication. The fact that the Senator from Pennsylvania did not receive a communication which some other members of the committee received, or did not receive it at the same time, did not mean that he was not to receive the communication. It was simply a question of failure of the communication to be delivered, as it should have been delivered, at the same time it was delivered to the other members.

Mr. Califano had nothing to do with that. Mr. Shriver had nothing to do with that. And, for that matter, the President at no time had anything to do with it in any way whatsoever.

A close relationship exists among the President, Mr. Califano, Mr. Shriver, and the Senator from Pennsylvania in regard to working out a poverty bill for consideration next Tuesday by the Senate committee. And I wanted to say this because I think it is due the President, Mr. Califano, Mr. Shriver, and the Senator from Pennsylvania.

I have also taken a very active part in an advisory capacity in connection with

poverty legislation, and I feel that I owe it to my President, to Mr. Califano, and to Mr. Shriver to make the statement.

Mr. CLARK subsequently said: I wish to thank the Senator from Oregon for the kind words he said about me in this connection, and to make it crystal clear for the record that there is no—I repeat, no—controversy between the administration, Mr. Califano, Mr. Shriver, or anybody else and me about the pending amendments to the Office of Economic Opportunity Act, or as to what the progress of that bill should be on the floor. The administration is as anxious as I am to get the bill to the floor promptly, and to get it acted upon.

In the vast, wide spectrum of a very important act, involving a good many amendments to the present legislation, we are in accord, I would say, with respect to 90 percent of the matters under consideration. When I say "we," I mean the administration and myself. There is a hard core of disagreement involving particularly the problem of the extent to which an Emergency Employment Act should be attached to the poverty bill. I feel it should; the administration feels it should not.

There are various other matters, most of them more or less technical, upon which we are in disagreement. But this is only the normal difference of opinion between the Executive and the legislature with respect to any important bill. If there are any who think the Senator from Pennsylvania is in bitter conflict with the administration with respect to the poverty program, let him be disabused, for I am not.

Mr. MORSE subsequently said: Mr. President, at the very beginning of my remarks I said that I had hoped to have the Senator from Pennsylvania present when I made my remarks. I had tried to reach the Senator, but because we are going to have a quick adjournment, I assumed that was the reason the Senator was not present.

What I did, in effect, was say that the Senator and I had talked this morning.

I said that I had had a prior conversation with the Senator from Pennsylvania. And I pointed out that it was not true, as the newspaper accounts would indicate, that there was any conflict between the Senator from Pennsylvania and the President, Mr. Califano, or Mr. Shriver, but that the Senator from Pennsylvania was anxious to get the bill reported and was working to that end.

I thought in fairness to the Senator from Pennsylvania and the President and Mr. Califano and Mr. Shriver that the statement should be made.

Mr. CLARK. Mr. President, I thank my friend, the Senator from Oregon.

Mr. JAVITS. I am not challenging anything that the Senator just said, which dealt pretty much with the problem intra the Democratic majority of the committee.

I know the Senator from Oregon is a thoughtful, courageous, and independent man. I would appreciate it if the Senator would make a comment on this matter.

I complained about the size of the effort which we are undertaking and the fact that it does not match the size and the urgency of the problem.

I took my text from yesterday's meeting of the urban coalition here in Washington.

In addition to all of the programs which are on the books and are to be implemented by way of appropriations that the President is urging us to approve, some broader and more conceptual effort is needed to really meet the issue.

I pointed out, for example, the enormous opportunities—with which the Senator knows I have been identified for so long here—to utilize the American business system in a deliberate way.

It is really somewhat sad that we had to ask an ad hoc coalition to stir itself up and lay before the White House the enormous power of companies and the intensity, experience, and employment opportunities in all of the fields concerning the responsibility for engaging in a massive way in the antipoverty effort.

I think the response would be immediate on not only the local, but also the national level.

As the Senator knows, I have been interested in such efforts for a very long time. It is that about which I complain.

I am not questioning the sincerity of the President, but I think he is so obsessed with the Vietnamese war that he overlooks some other matters. I hope the Senator will—and I know that he will do so—separate himself in his answer from his own deep feelings about the Vietnamese war.

But I believe the people in the cities have the feeling that the President is so obsessed with the Vietnamese struggle, so desirous of fitting everything into it, that there is a failure to give at least equal priority to this agony of the cities, as I and others have called it. That is what I complained about strongly. I hope the Senator, in what he says—which I honor, and I am not disputing it—will bear in mind that that is really the complaint, not that anybody gets too excited about the intraplay within the majority party with respect to the problem of Presidential responsibility and congressional responsibility.

I really believe, in all honesty—and I have been accused in my own party of supporting the administration to excess, so I do not have to protest my feeling of partisanship on that score—that there is a legitimate complaint about the questions of priority and, beyond that, and more important, the question of the size, the conceptual size, of what is being undertaken as compared with what needs to be undertaken.

Mr. MORSE. I welcome the opportunity to reply to the Senator from New York. I did not hear the Senator's remarks earlier today. That was my loss.

I do not recall whether the Senator from New York was in the Chamber last week when I made some comments on the poverty program. But if the Senator will check the RECORD, he will find further proof that he and I are not apart at all with respect to what we believe our objectives and our obligations are, as Congress, to meet the crisis that has developed with respect to urban problems.

The remarks I made a few minutes ago in regard to this matter do deal with what the Senator has described as an intraparty problem that I believe has been ballooned out of all proportion by the press, and that the very honest reporters wrote what they thought the situation was, but did not get all the facts. I sought to supply some of the additional facts in my comment this afternoon.

When the administration's poverty program came up—it came up quite some time ago, so far as its recommendations are concerned—it did not deal then with the emergency that existed in fact.

It is true that the Senator from New York, the Senator from Oregon, the Senator from Connecticut [Mr. RIBICOFF], the Senator from Pennsylvania [Mr. CLARK], and many other Senators have held the view for quite some time that we will have to inaugurate a much larger program in connection with meeting a whole series of domestic crises than legislation contemplated. The Senator has heard me say that we have to do that in the field of education, in the field of employment, and in the field of coming to the assistance, to a greater degree, of the poverty-stricken people in our country. That is why I have been advocating the rent supplement payments.

I believe the RECORD will show that I was among the first to propose a Federal make-work program for the functionally illiterate in this country, defining the functionally illiterate as the individual who does not have sufficient training so that he is employable in most instances. A make-work program would also have to be a work-training program; many of the people who participate in it will not be able to earn, in the sense of service performed, the value of the dollars that they may be paid.

Senator JAVITS and I discussed this morning in committee, one aspect of that matter, when I took the position that the statutory minimum wage should be paid the people who are presently unemployable, in the sense that they are not trained for employment carrying with it the requirement of a skill, where they can earn the money that is being paid them.

They are a national problem; they are the problem that confronts all of us; and we cannot permit this crisis to continue, with increasing thousands of these human beings faced with no employment because they have no skill which would make them employable for most of the job opportunities that are waiting for workers.

The Senator from New York has made the same observations that the Senator from Oregon has made about the migration from the South, into the ghettos of the North, of increasing thousands of Negroes who, because of automation in the South, because of great changes in their agricultural economy in the South, have no jobs; and, having no jobs, they have little food. They have become a serious problem for all the people of the country. They are migrating into the ghettos of the North, including Newark,

New York, Washington, D.C., Detroit, Pittsburgh, Philadelphia, and other places—but particularly such cities as Newark, New York, and Washington, D.C.

In fact, the Senator from New York knows that certain information that has been adduced concerning the problem in Newark, prior to the riots, dealt with the thousands of Negroes who had come into Newark from the South—not only unemployed but also unemployable.

I say to the Senator from New York that he and I do not differ at all with respect to the need for a massive program. But in fairness to the President and his advisers, I point out that what they have been dealing with is a poverty program that they sent up months ago to provide substantial funds to try to do something about what we all knew was a developing, serious, critical problem in the ghettos of the cities and the rural slums of the countryside. Since then, of course, there has been a serious economic, social, and political eruption in the ghettos of America.

I happen to believe that we are quite right in our committee, as we are considering amendments to this bill. Those bills will come to the floor of the Senate and House, and I have no doubt that the administration will make clear its position in regard to any parts of the bill to which it may not give its approval. But I think we are all going to be surprised—in light of the new evidence that has been made available to the administration since it submitted its poverty bill in the first instance—with respect to the idea that the administration will take the position that it wants its original bill or nothing.

I will put it this way: I do not speak for anybody but myself. I just cannot imagine a poverty bill passed by both Houses of Congress, after it is handled in conference, being vetoed by the President of the United States. The impression seems to be that if Congress works its will and wisdom upon a poverty bill, the President is not going to approve it. There is no basis in fact for that, though I have not the slightest idea what his final judgment will be. But I know what my confidence is in him in regard to his knowledge of the serious domestic problems that confront us, and I am satisfied that wherever it can be shown that a given proposal is essential to meet a domestic crisis, the President of the United States will not say that we cannot meet it or that we should not meet it. That is all I wish to say to the Senator from New York.

The council meeting to which the Senator referred was held just yesterday, with the recommendations and the evidence in support of those recommendations being made available to the administration. I do not think we should prejudge—and I am not implying that the Senator from New York is prejudging—what the administration is going to recommend in regard to a final program, growing out of such excellent conferences as were held in Washington yesterday, to meet the crises in the ghettos and rural slums.

The Senator from New York endorses the recommendations of that council. I think they are unanswerable. Those recommendations are not new to the Senator from New York or the Senator from Oregon. We have been holding to that point of view for many months. I made the statement I did on what the Senator calls the "intra-administration problem." I make the statement now in reply to him concerning the problem confronting the country as a whole and the Government of the country as a whole.

I shall continue as a member of the committee to work, with the Senator from Pennsylvania [Mr. CLARK] and the Senator from New York [Mr. JAVITS] to try to hammer out the type poverty bill that should be passed, when we have our final markup meeting on the bill next Tuesday. My confidence in the administration is such that if we set out in the report the justification for our bill, I do not have any concern on my part that the administration will oppose a program our facts support.

I am sorry that I took so long in answering the Senator, but the Senator from New York knows that I am speaking about a delicate subject matter. It is important that I make myself crystal clear, and I hope I have.

Mr. JAVITS. The Senator from Oregon has made himself crystal clear, and I am grateful to him for this colloquy.

ORDER OF BUSINESS

Mr. BYRD of Virginia. Mr. President, will the Senator yield?

Mr. JAVITS. I wish to propound an inquiry to the Senator from West Virginia and ask the Senator whether he would like to have morning business concluded or whether the Senate should continue in morning hour. I have another speech that will take about 10 minutes. The Senator from Virginia [Mr. BYRD] wishes to be recognized, as well as the Senator from Nebraska [Mr. CURTIS].

Mr. BYRD of West Virginia. I think we should proceed with morning business and Senators can be recognized for as much time as they desire.

Mr. MORSE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. MORSE. I am willing to accommodate the Senator in any way he wishes. I have three or four items for morning hour. I shall be glad to follow any procedure the Senator suggests.

Mr. JAVITS. Mr. President, I yield the floor momentarily.

EXPORT-IMPORT BANK RESTRICTIONS

Mr. BYRD of Virginia. Mr. President, I wish to call to the attention of the Senate an interesting news dispatch from the Associated Press on yesterday. Incidentally, the Associated Press is the world's largest news-gathering organization. This dispach was datelined Washington, and the lead paragraph reads:

> Some key House Democrats are planning a strategic retreat to try to ease restrictions clamped by the Senate on the Export-Import Bank.

Mr. President, at the appropriate time I shall ask that the entire article to which I have referred be published in the RECORD.

The latter part of the article contains a statement attributed to the chairman of the House Committee on Banking and Currency, Representative WRIGHT PATMAN, of Texas, in regard to the amendment the Senate added to the Export-Import Bank bill 2 weeks ago. This was agreed to by the Senate by a vote of 56 to 26.

The amendment to which I refer would deny the use of Export-Import Bank funds—namely, funds from the American taxpayers—to finance business transactions with nations which are supplying the American enemy in Vietnam.

Now, there will be a determined effort in the House of Representatives to take off this Senate amendment. The chairman of the House Banking Committee is reported to have told the Associated Press and other news services day before yesterday:

> I think things would be tough if we had a vote in the House now.

When the chairman of the House Banking Committee refers to "things would be tough" he means he would find it difficult to get the House to take off the Senate amendment.

Then, he is reported to have added this very interesting statement:

> But I think after a cooling off period of 3 weeks—
>
> The Representatives—
>
> will start hearing from some of their fat cat constituents who don't want this trade cut off.

I do not know who the "fat cats" are, who are being referred to, but apparently the Members of the House of Representatives, and I imagine Senators, during the next 3 weeks will be subjected to a great deal of pressure, according to Representative PATMAN, to eliminate from the Export-Import Bank bill the restriction added by the Senate by a vote of 56 to 26.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the distinguished senior Senator from Virginia be allowed to proceed for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD of Virginia. I thank the Senator from West Virginia.

Mr. President, I wish to make clear that the amendment which the Senate added to the Export-Import Bank bill does not restrict trade. Any of the nations anywhere can trade with North Vietnam if they so desire. What the amendment provides is that funds of the taxpayers of the United States shall not be used to finance such transactions.

Where does our Government get its money? Our Government gets its money from the pocket of the wage earner; our Government gets its money from the pockets of citizens in our Nation, many of whom have sons or brothers or other members of their families fighting a war on behalf of the United States in that faraway Asian nation of Vietnam.

Incidentally, only this morning the U.S. casualty totals for last week in Viet-

nam were made public. When one adds the wounded and the dead, the American people suffered casualties to the extent of approximately 1,000 during the past week in Vietnam. The total U.S. casualties for the first 7 months of 1967 were 43,000.

I submit, Mr. President, that this country needs to decide whether it is serious or whether it is not serious about this war in Vietnam. Certainly it is serious to those men who are over there fighting.

What the Senate did 2 weeks ago in agreeing to this amendment to the Export-Import Bank bill was to simply say that money will not be taken out of the pockets of American taxpayers and used to finance trade with those nations which are supplying and sending cargo to our enemy in North Vietnam.

Specifically, too, it will not permit American taxpayers' funds to be used to finance an automobile plant for the Soviet Union.

As the chairman of the House Banking and Currency Committee, Representative PATMAN states—and these are his words, not mine:

> Fat cats will be descending on Congressmen and descending on Senators to try to have this amendment eliminated.

Mr. President, as to what success the "fat cats" will have, I am frank to say I do not know.

I think the amendment is logical and appropriate. I believe that taxpayers' funds should not be used to finance trade with nations who supply our enemy in Vietnam.

Mr. President, I ask unanimous consent to have printed in the RECORD an Associated Press article of August 24, published in the Roanoke Times, entitled "Byrd's Ban Faces Fight in House."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BYRD'S BAN FACES FIGHT IN HOUSE

WASHINGTON.—Some key House Democrats are planning a strategic retreat to try to ease restrictions clamped by the Senate on the Export-Import Bank.

The Senate voted on Aug. 10 a ban on bank assistance to exports destined for countries that deal with North Vietnam.

Opponents said it is so broadly worded it would deny use of the bank's facilities for large segments of U.S. trade with friendly countries—to say nothing of scuttling President Johnson's plan for enlarged trade with eastern Europe.

The House Banking Committee Wednesday announced postponement of renewed hearings on a bill to extend the bank's charter and enlarge its operating capacity, shortly before they were to begin.

The decision to let the bill lie for a cooling-off period of at least three weeks was the principal one reached at a closed-door caucus of Democratic members of the committee late Tuesday.

Work has also begun on drafting of a compromise amendment, it was learned.

The "Ex-Im" is a government agency that provides insurance, guarantees and loans for U.S. trade abroad. The amendment adopted by the Senate on motion of Sen. Harry F. Byrd Jr., D-Va., would deny such services "in connection with the purchase of any product by any nation, (or agency or national thereof) the government of which is furnishing goods or supplies" to a country engaged in armed conflict with the United States.

Opponents contend the ban would go beyond cases in which governments directly aid North Vietnam because, as one put it, "You cannot export anything from any country without some government action."

A similar amendment was offered in the House Banking Committee May 3 and defeated, 18 to 15, on a largely party-line vote. But leaders, knowing the effort would be renewed on the House floor, have hesitated to call up the bill. "I think things would be tough if we had a vote in the House now," Chairman Wright Patman, D-Tex., said in an interview Wednesday. "But I think after a cooling-off period Republicans will start hearing from some of their fat-cat constituents who don't want this trade cut off."

The amendment under consideration—to be sponsored by the committee itself despite its previous action—would give the President discretion to permit Export-Import Bank assistance for trade with countries covered by the Byrd ban.

Mr. BYRD of Virginia. Mr. President, there is also a United Press International article, dated today, published in the New York Times, entitled "Costly Purchase Laid to Pentagon—Representative PIKE Charges $210 Item Was Bought for $33,398." The article states that Representative PIKE, Democrat, of New York, charged that the Defense Department paid $33,398 for gadgets which were worth $210, and that the Defense Department had called it a bargain.

Mr. President, I ask unanimous consent to insert the entire New York Times article in the RECORD, at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

COSTLY PURCHASE LAID TO PENTAGON—REPRESENTATIVE PIKE CHARGES $210 ITEM WAS BOUGHT FOR $33,398

WASHINGTON, Aug. 24 (UPI).—Representative Otis G. Pike, Democrat of New York charged today that the Defense Department had ordered $33,398 worth of gadgets worth $210 and had called it a bargain.

He told a news conference that the Pentagon had ordered 130 knobs used on generators in Vietnam from Sterling Instruments Division of Designatronics Inc., of Mineola, N.Y. Mr. Pike, a member of a House Armed Services subcommittee investigating the purchase, said that the same knobs were sold by Federal Pacific Electric Company of Newark, N.J., for $1.62 each—or $210.60 for 130.

The apparent reason for the $33,398 order, Representative Pike said, was that Sterling Instruments was the only manufacturer to respond to an advertisement for bids.

Because it was technically a competitive bid, the Defense Department considered it a bargain, Mr. Pike said, crediting its "cost reduction program" with an automatic 25 per cent saving, or $8,349.

Mr. Pike said that every time the Pentagon buys something through competitive bidding, it throws the purchase into a computer that figures an automatic 25 per cent saving.

When informed of the overcharge, Mr. Pike said, the Defense Department canceled 50 knobs that it had ordered for $13,362.

The transactions, Mr. Pike said, is under investigation by his subcommittee, the General Accounting Office and the Defense Department.

The Defense Department promised prompt action on Representative Pike's charges. "With the heavy volume of individual procurement actions, mistakes can and do occur," the Pentagon said. It added that "overpricing, however rare, will not be tolerated."

Mr. BYRD of Virginia. Mr. President, these two separate incidents, it seems to me, tie in together.

I am concerned that some of the Nation's businessmen seem to be too much interested in making profits out of the Nation's difficulty in Southeast Asia. Therefore, I think it is worthwhile that the American people should have knowledge of the facts.

According to the article, the Defense Department has promised prompt action on the charges made by Representative PIKE. What is significant, too, is that the Defense Department considered this to be a bargain, crediting its cost reduction program with an automatic 25-percent saving of $8,359—that is what it claims to have saved on items they paid $33,398 for when the original cost of the items was only $210.

Mr. President, I am deeply concerned over the events of the war in Vietnam. It is therefore tragic when the Government is taken advantage of to the extent it has been taken advantage of, according to the charges made by Representative PIKE.

In that connection, I should like to congratulate and commend the Armed Services Committee of the House of Representatives for the work which that committee is doing in investigating some of the problems created by the Defense Department.

THE TFX AND ITS ADAPTABILITY FOR NAVY USE

Mr. CURTIS. Mr. President, there has been a great deal of discussion in recent days about the TFX airplane and its adaptability for Navy uses.

We have heard and read the pros and cons advanced by such distinguished experts in our midst as the Senator from Arkansas [Mr. MCCLELLAN] and the Senator from Texas [Mr. TOWER].

Just 2 days ago the Defense Appropriations Conference Committee reached a compromise adding $32.9 million to the Senate-approved appropriation figure for continued research and development of the Navy version of the plane, known as the F–111B. This raised the total amount in the current appropriations bill for development of the Navy version to $147.9 million, sufficient to procure eight aircraft instead of the six approved earlier this week by the Senate, the 12 approved initially by the House of Representatives and the 20 sought initially by the Department of Defense.

It is significant that under the terms of the conference agreement none of these funds could be used for the production of advanced aircraft or components except engines. In other words, the Congress is approving the manufacture of F–111B aircraft only for test purposes, with primary emphasis on efforts to prove that the plane can be made to land on carrier decks.

Meanwhile, the Congress has given the go-ahead for production and assignment to tactical units of Air Force versions of the TFX. Through fiscal 1968, funds have been or are being provided to produce and deliver to the Air Force a total of 331 aircraft of the tactical fighter-bomber version, the F–111A, and 64 aircraft of the strategic bomber version, known as the FB–111.

It is on this subject of adaptability and production of the Air Force versions

that I wish to address some remarks of concern and caution today.

I do not want to be an alarmist, Mr. President, but I do want to alert the Senate and the Nation to the fact that the military planners and research scientists are not out of the woods yet on either the tactical fighter-bombers or the strategic bombers being procured by the Air Force.

And the people of this Nation should not be misled into believing these aircraft, developed and being built at costs far exceeding original estimates, will provide security from attack in the 1970's comparable to the protection they have enjoyed at far less cost in the past.

There are simply too many bugs still to be worked out, even in the Air Force versions, for any of us to feel secure in the decisions we have made in the Congress appropriating funds for production of these planes.

This is evident from testimony both classified and unclassified that has been taken by committees of Congress. In fact, a line of questioning pursued by the distinguished Senator from South Dakota [Mr. MUNDT] at hearings before the Appropriations Committee on July 14 showed up so many unsolved research and development problems being built into the Air Force planes coming off the production lines right now that a strong case can be made for halting production to allow another year of research and development on the Air Force versions.

The record is clear on this point.

However, I wish to make one additional point, Mr. President.

The point I want to make is this: There is growing discontent in the Air Force with the adaptability of the Air Force versions of the TFX to the practical problem of developing airplanes to do the jobs that need to be done by the Air Force.

This information has come to me from totally reliable sources within the Government. It is available to the committees of Congress which deal with this problem. It does not come from the top echelons, but from the lower echelons of Air Force officers who are charged with the responsibility of applying to tactical situations the decisions that are made at the top echelons. Basically, the TFX airplane is an excellent aircraft for development as a small nuclear attack bomber but its effectiveness ends there. It has no versatility for other uses including strategic bombing and tactical fighting. It is a poor strategic bomber and an even poorer tactical fighter. The main problem is that it is overweight and underpowered.

Air Force tactical units will begin receiving these planes next month for training purposes.

By November, or 2 months after tactical units receive these planes, the Congress of the United States will begin receiving accurate reports from the people who will operate these planes on their use and flexibility. We will have more information then than we have now, and the information we receive then will be more complete than the information we are receiving now from generals who are directly responsible to the civilians who are running the Pentagon.

The Permanent Investigations Subcommittee on which I serve may find it necessary to continue the TFX hearings at any time. I think these hearings should be opened in November or December, after the Air Force personnel who will operate the planes have had an opportunity to use the production models for training purposes. I for one will recommend that the pilots in addition to the generals will be called to testify.

I am not trying to undermine the top brass in the Pentagon. I feel, however, that the testimony we have received to date is not entirely candid. I want to hear from the pilots.

The B–52's which we now have are going to wear out in the early 1970's and the United States will be without an adequate replacement unless the Air Force versions of the TFX are suitable.

For this reason, Mr. President, I hope that the TFX is successful. But I have serious doubts.

The decision to try this plane and to push ahead with the production of this plane for tactical uses by the Air Force is largely the decision of one man, Robert Strange McNamara.

The costs and other problems which have developed indicate this was a multi-billion-dollar blunder. If we are able to bail the United States out of this blunder, the only reason we will be able to do so is that we are able to plow additional billions of dollars into it to correct the problems.

This plane is supposed to be a fighter plane, and yet it cannot be. The Air Force is trying to develop and build it as both a fighter-bomber and a strategic bomber, and yet it cannot be either. I think it is time to take Mr. McNamara's overblown press releases with the same grain of salt with which we have taken his assessments of the progress of the war in Vietnam. I feel very strongly that the security and peace of the Nation demand a closer look at the TFX decision than we have had to date, and I am convinced that the Congress in the next few months will have an opportunity to take that look.

ORDER OF BUSINESS

Mr. MORSE. Mr. President, I should like to say to the acting majority leader that there are three or four items I wish to place in the RECORD, with a brief statement or two or three. I shall not take very long but I think in the interests of orderly procedure that I should ask unanimous consent for such time as I may need to present this material.

Mr. BYRD of West Virginia. Mr. President, reserving the right to object—and the Senator from Oregon knows that I shall not object—I want him to have all the time he wishes, but I wonder whether he would mind placing a time limit on his request; say, 10, 15, or 20 minutes?

Mr. MORSE. I need only 15 minutes.

Mr. JAVITS. Mr. President, reserving the right to object—and I shall not object—will the Senator from Oregon make it as close to the 15 minutes as possible, because I need 10 minutes also?

Mr. MORSE. I have to preside over a Senate hearing at 2 o'clock, and I have not had any lunch, so I shall be brief.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN AID VERSUS DOMESTIC NEEDS

Mr. MORSE. Mr. President, in this morning's New York Times there is a letter to the editor written by the Senator from Alaska [Mr. GRUENING] entitled "U.S. Foreign Aid Versus Domestic Needs."

He states at the beginning:

I take exception to your Aug. 18 editorial characterizing those of us in the Senate who voted for reductions in the Administration's request for the foreign-aid program as "aid irresponsibles." You completely overlook the fact that the amount finally approved was no less than that approved last year.

Mr. President, I associate myself completely with the Senator from Alaska in his letter to the editor of the New York Times, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. FOREIGN AID VERSUS DOMESTIC NEEDS

TO THE EDITOR, NEW YORK TIMES: I take exception to your Aug. 18 editorial characterizing those of us in the Senate who voted for reductions in the Administration's request for the foreign-aid program as "aid irresponsibles." You completely overlook the fact that the amount finally approved was no less than that approved last year.

The reductions voted by the Senate did not affect the level of on-going programs. It gave recognition to the feeling, strongly held by a majority of Senators, that no new foreign-aid programs involving substantially higher levels of expenditures should be approved at a time when this country is beset by a domestic crisis requiring the massive infusion of resources, when the demands on our economy of the deplorable Vietnam conflict are increasing, when vitally needed domestic programs are being curtailed because of budgetary pressures, and when the taxpayers are being threatened with a new tax increase.

The evidence available to the Senate does not support your contention that the Alliance for Progress is regaining impressive momentum. As chairman of the Senate Subcommittee on Foreign Aid Expenditures, I made an intensive study of the economic aid program to Chile, selected because of its favorable predisposition for success.

RECORD OF WASTE

Yet the record shows that a large part of our economic assistance was wasted and that an excessive amount of aid has been provided that country in terms of what it could effectively manage and absorb.

In the April 1967 issue of Foreign Affairs, Chile's President Frei, one of the most progressive leaders in Latin America, reported on the discouraging lack of progress in the Alliance. Nowhere did he report that the Alliance had "regained impressive momentum," or that the basic difficulty with the Alliance was a lack of assistance from the United States. On the contrary, he wrote that "Many Latin-American governments have used the Alliance as a bargaining lever to obtain increases in United States aid precisely so as to avoid changing their domestic situation."

President Frei concluded that the problem of the Alliance is not financial, but rather political, requiring the expression of the will to undertake basic structural changes.

The reduction voted by the Senate is rec-

ognition that foreign-aid programs should not be increased when slashes are being made in all the fine domestic programs enacted by the 89th Congress—such programs as aid to education, health programs, slum clearance, resource development, war on poverty, war on crime, flood control and others.

ERNEST GRUENING,
U.S. Senator from Alaska.

WASHINGTON, *August 21, 1967.*

CAPITOL INTERNS PLAN BOYCOTT OF L. B. J. TALK

Mr. MORSE. Mr. President, in this morning's Washington Post is published an article entitled "Capitol Interns Plan Boycott of L. B. J. Talk."

The first paragraph reads,

Some students working this summer on Capitol Hill are organizing fellow interns to boycott a reception and speech usually given by the President this time of year. And the President, never over-eager to play host to his critics, is taking the hint.

Later on in the article it states:

The interns, led by John Ungar and Lee Bollinger of Sen. Wayne Morse's office (D-Ore.), also plan a token picket line, consisting of about five to ten persons to dramatize their opposition.

MORSE NOT INVOLVED

They hope to avoid implicating the Congressmen, and Ungar and Bollinger insist that neither Morse nor any other legislator knows of their plans.

The President, they concede, might have some reason for regarding the interns as somewhat hostile.

They go on to suggest that they might have a token picket line—I believe in front of the White House.

I ask unanimous consent that the entire article be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAPITOL INTERNS PLAN BOYCOTT OF L. B. J. TALK

Some students working this summer on Capitol Hill are organizing fellow interns to boycott a reception and speech usually given by the President this time of year. And the President, never over-eager to play host to his critics, is taking the hint.

Although House Speaker John W. McCormack (D-Mass.) wrote the interns earlier this summer that they would be treated to a presidential speech at the end of August—as interns have been every year in the past—the White House says Johnson has "no plans" for such an engagement.

The interns in the boycott group believe that the President will decline to address them as a reprisal for several letters they have written criticizing his Vietnam policies, and also because of the threat of a possible boycott.

ONE THOUSAND THREE HUNDRED LETTERS SENT

In case he surprises them with a spur-of-the-moment invitation, they have sent letters to the 1300 summer interns at the Capitol urging them to resist the temptation to attend "another presidential charade that seeks to represent distortion as dialogue."

Unless the President is "willing to reverse his policy and behavior," the letter says, "we refuse to help legitimize by our attendance what has become a meaningless ritual."

The interns, led by John Ungar and Lee Bollinger of Sen. Wayne Morse's office (D-Ore.), also plan a token picket line, consisting of about five to ten persons to dramatize their opposition.

MORSE NOT INVOLVED

They hope to avoid implicating the Congressmen, and Ungar and Bollinger insist that neither Morse nor any other legislator knows of their plans.

The President, they concede, might have some reason for regarding the interns as somewhat hostile. Earlier in the summer, over 200 of the students signed a letter urging him to reverse his "destructive" policy in Vietnam, end the bombing and negotiate a solution.

The boycott, says Bollinger, a 21-year-old senior at the University of Oregon, is a "more meaningful type of protest" than the letter which, after all was "only a piece of paper."

He said that he and Ungar have been working "in conjunction" with Vietnam Summer, a national anti-war program with headquarters in Cambridge, Mass., and a local branch in St. Stephan's Church.

Mr. MORSE. Mr. President, not only did I not know of the plans these interns had for carrying out the project the story describes, but those interns have no inkling of what I am about to say, either.

Interns, as every Senator knows, are made available to Senators to assist in their offices. There are various programs for interns. The Political Science Association has an intern program. Other academic associations have intern programs. Individual universities have intern programs. They are exceedingly beneficial to the interns and to the Members of Congress they serve.

This intern program also applies to various departments of the executive branch—the Defense Department, the State Department, the Labor Department, the Agriculture Department. In fact, I think most of the departments that come under the jurisdiction of a Cabinet officer also have an internship arrangement.

No one could be a more enthusiastic supporter of the intern program than the senior Senator from Oregon.

Now, in regard to this particular incident, may I also say that the senior Senator from Oregon would be the last to seek to impose any restriction on the independence of interns or the exercise of the independent judgment of interns, no matter how I might disagree with their conclusions. If I had been consulted in regard to the advisability of such a program, I would have strongly advised against it, because of a deep philosophical tenet of mine. I just believe in the full exchange of ideas. That includes listening, as well as expressing oneself.

I believe in untrammeled free speech in this Republic. I am against any attempt to restrict it or any attempt to censor it; and attempts to restrict or censor it can take a variety of forms. Even the program that is referred to in this article, when one stops to analyze it, is, in part, an attempt to follow a behavior manifestation that would express in advance disapproval of even the President of the United States seeking to talk to interns.

I want to say respectfully that I just cannot reconcile that with the basic purpose of the American educational system, of which interns are the beneficiaries; but I also know a great deal about the learning process and how the attitudes of students change as they are subjected to more and more of the learning process. After all, they have the right to make mistakes as rest of us have, if we decide that, in our personal judgment, a program such as that would be a mistake. I happen to believe that it would be a mistake. In fact, I think no young person in this country, or old person, for that matter—any person in our Republic—ought not to welcome the opportunity to hear any President of the United States, at any time, on any subject even though he may know, or surmise, when he goes to hear him, he is going to disagree with him.

One of the precious rights of our democratic form of government—and really one of the basic safeguards of our freedoms—is the availability of a President of the United States to commune with the people of the United States and groups in the United States. And so I would welcome an opportunity to hear my President, at any time, on any subject, and then reserve to myself the right to be the judge of whether or not the views he expressed were, in my opinion, sound views. That is the way democracy is kept strong and vital in this Republic.

Mr. President, I wanted the RECORD to show that, although the interns made clear that they were following a course of action without any knowledge of Members of Congress as to what they purported to do, it is their right to do it as long as they conduct themselves in an orderly and decorous manner. I do not question their right. I would be the last to question the right of dissent in this country, although the major speech I made on the floor of the Senate on dissent some weeks ago emphasized responsibility of dissent.

Also, I do not question the right of orderly demonstrations in protest, so long as they are conducted in the framework of law and order. After all, the right to protest is a form of the right to petition under our Constitution. The right to demonstrate, so long as it is an orderly and lawful demonstration, is one of the guarantees of a form of freedom of speech, for one speaks with actions as well as with words.

I do want the RECORD to show this afternoon, and I want to thank the interns for making clear to the press, that I knew naught of their program, nor was it outlined to any other Senator or legislator, what the view of the senior Senator from Oregon is on the subject matter.

With respect to the interns, those whom I know and those whom I do not know, I want to say I am not in any way taking a disciplinary attitude of a professor. I would not interfere with the right of the independence of students to pursue a course of action which their judgment dictated they should pursue. But I want the RECORD to show that I would not share their judgment in regard to the program which they have outlined.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. MORSE. I yield.

Mr. BYRD of West Virginia. I wish to take a moment to say that I appreciate

the fact that the Senator from Oregon has made this statement concerning the proposed action by the interns. I think it was proper that he make it. I think it was good that he made it. I would only add that, in my view, the interns owed it to the Senators—and, of course, the Senator, I assume, will not agree with me on this—to whose offices they were attached to alert those Senators as to their intention.

I feel that if an intern were attached to my office and had planned to participate in an activity which certainly could prove to be of some embarrassment to the President of the United States, certainly, in my judgment, the intern would owe it to me, and to other Senators to whose offices those interns were attached, to at least advise us of their plans.

If an intern in my office had been involved, I would have expected that, and I would have advised against it. Of course, the intern could then do whatever he wished. He could go ahead, if he wished, but he would no longer be attached to my office if he proceeded in an activity of this kind.

That is my view. I do not ask others to agree with me. I do feel these interns owe it to Senators to whose offices they are attached to advise the Senators of what they intend to do in such regard. Then the Senator can use his own judgment. If he wants to approve it, or disapprove it, or disassociate himself not only from the activities of the intern but the intern also, he can do it.

I certainly do think the Senator from Oregon has been right in bringing this matter to the attention of the Senate and in indicating that he himself does not sympathize with the purpose of the activity that the interns planned to engage in.

Mr. MORSE. Mr. President, I would like to make two comments to my friend from West Virginia. First, this morning representatives of various TV stations and the press sought to use my office for interviews with the interns, and I refused to permit my Senate office to be used for that purpose. I said:

> You have a perfect right to interview the interns, and they have a perfect right to be interviewed by you, but you should take them to your studios or somewhere else than my office for interviews.

As the Senator knows, TV stations or radio stations must obtain permission to make use of the precincts of the Senate Office Building for an interview on a matter connected with a Senator's office, directly or indirectly, and I refused that as well. I thought that that was only fair to the interns, as well as fair to my office. After all, each Senator owes a responsibility to his office.

As to the other comment that my friend from West Virginia made, I understand his point of view, but may I say——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD of West Virginia. I ask unanimous consent that the Senator from Oregon may proceed for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MORSE. The Senator is very gracious.

As a former dean, Mr. President, I followed the same course of action in handling student affairs and student problems. I did not expect students to advise me in advance in regard to any course of conduct that might subsequently involve law school policy. But I had a responsibility also to carry out law school policy.

There is always the responsibility to carry out law school policy; but I rarely seek to interfere with what I consider to be the constitutional right of an individual—and the interns have a constitutional right—to follow the course of action they took. My disagreement with them is not over their right, but their judgment in doing so.

Mr. BYRD of West Virginia. Mr. President will the Senator yield?

Mr. MORSE. I yield.

Mr. BYRD of West Virginia. I would not want the RECORD to imply that I would wish to interfere with the constitutional rights of interns.

Mr. MORSE. No. Our views are different in regard to what I think my authority over the interns is. That is the only reason why I have mentioned this. I do not think I have the right, having accepted the assignment of interns who come from academic associations and institutions, to set myself up as their disciplinarian.

Mr. BYRD of West Virginia. Mr. President, will the Senator further yield?

Mr. MORSE. After one more sentence. In some instances we are told that interns who are coming into our offices completely disagree with us on major positions we have taken on some issues. I have had interns come into my office in the last 2 years of whom I had been advised in advance that they completely disagreed with my position on foreign policy, but that they wanted to work in my office to see if they could get a better understanding of my position or to see what made me "tick," as one college dean told me when a student asked to work in my office.

So I have brought interns into my office without any intention whatsoever to exercise any disciplinary action upon them or censuring their opinions. Of course, if they got into a position of committing illegal conduct, that would be something different. But when it is a question of a disagreement with me as to how to express a viewpoint on foreign policy, I do not think I should say to them, "If you take that position, you can no longer be a part of my office."

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. MORSE. I yield.

Mr. BYRD of West Virginia. I would not want the RECORD to imply that I would attempt to set myself up as a disciplinarian. I simply meant that, in my view, the interns at least owed it to Senators to inform them of whatever action they planned; then it would be up to the individual Senator to decide whether he wanted to approve or disapprove it. I think a Senator has a right to dissociate himself from such activity. He has a right also to terminate any contact that an intern has with his office. That is not an interference with the constitutional rights of an intern.

But when an intern is about to do something that might embarrass a Senator or that might be an embarrassment to the President, I think the intern owes it to the Senator to advise with him. The Senator can then do what he wishes. I know what I would do in such case.

Mr. MORSE. I do not attribute to the Senator from West Virginia one iota of my subjective views in regard to the problem. I do not mean to so imply.

Mr. BYRD of West Virginia. I understand completely. The senior Senator from Oregon is, as always, thoughtful and considerate.

WELCOME ANNOUNCEMENT OF UNITED STATES–U.S.S.R. AGREED DRAFT TREATY ON NONPROLIFERATION OF NUCLEAR WEAPONS

Mr. CLARK. Mr. President, as a longtime proponent of a treaty to halt the spread of nuclear weapons, I was deeply gratified by the announcement yesterday that the United States and the Soviet Union have jointly submitted the text of an agreed draft treaty on the nonproliferation of nuclear weapons to the 17-Nation Disarmament Conference in Geneva.

I am proud to join with President Johnson in hailing this "cardinal contribution to man's safety and peace." What is particularly gratifying is the adoption, by both this country and the Soviets, of compromise language on the issue of the transfer of nuclear control which closely parallels a proposal which I made on May 22, 1966, in a report to the Committee on Foreign Relations following a visit to the Geneva Disarmament Conference. In my report I made it clear that the matter could only be resolved if the United States were prepared to junk such nuclear sharing schemes as the "MLF" and "ANF" and if the Soviets were prepared to yield on their objections to the stationing of U.S. nuclear weapons on German soil.

Both of these conditions have now apparently been met. As I said in that report more than a year ago:

> Our problem is to choose between agreement with the Russians to join in a major effort to prevent the further spread of national nuclear capability or to continue to flirt with schemes such as MLF, ANF, and the actual sharing of nuclear weapons with West Germany.

I am delighted that we have chosen the path of cooperation and not the path of intensified conflict.

It is also gratifying to me to note that this agreement has taken place in spite of the exacerbation of Soviet-American relations attributable to the war in Vietnam. More than a year ago I stated my firm belief, on the basis of my conversations with Ambassador Roshchin of the Soviet Union, that Vietnam did not pose an insuperable obstacle to the negotiation of a nonproliferation treaty. That was distinctly a minority point of view at that time. All the anonymous "informed sources" in the State Department were then taking their habitual negative point of view and saying that there

was no hope for a treaty. It is always sweet when events prove one right, but it is sweeter still when they also prove the "informed sources" wrong.

Mr. President, for the sake of the historical record, I ask unanimous consent that an excerpt from my report of May 22, 1966, and the text of my statement of June 15, 1966, on the nonproliferation treaty be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CLARK SAYS RUSSIANS DO NOT CONSIDER VIETNAM OBSTACLE TO TREATY TO STOP SPREAD OF NUCLEAR WEAPONS

Senator Joseph S. Clark (D., Pa.) today told the Senate that despite their recent strong words, the Russians are not insisting on United States withdrawal from Vietnam as a condition for signing a treaty to stop the spread of nuclear weapons.

The text of Senator Clark's statement follows:

"It is gratifying to learn that despite the strong words used by Ambassador Roshchin at Geneva yesterday, the Soviet Union does not view the involvement of the United States in Vietnam as an insuperable obstacle to the successful negotiation of arms control and disarmament agreements.

"An erroneous report carried on the wires yesterday indicated that Ambassador Roshchin had said that there can be no treaty to stop the spread of nuclear weapons as long as the United States continues its military operations in Vietnam. As I observed yesterday, in commenting on this report, when I was at Geneva a month ago, Russia made it quite clear that it did not consider Vietnam an insuperable obstacle to a nuclear disarmament understanding. If in fact the Russians had adopted the line attributed to them in the report, it would have been a most unfortunate change of mind.

"It now appears on the basis of information supplied by the U.S. Arms Control and Disarmament Agency, supported by reports printed in this morning's New York Times and Washington Post, that despite their stronger language the Russians have not in fact altered their position, and are not insisting upon the removal of United States troops from Vietnam as a precondition to a treaty. The principal obstacle to a treaty to halt the spread of nuclear weapons continues to be what it has been all along—this country's shortsighted insistence on keeping open the option of cutting West Germany in on some nuclear sharing arrangement. If the State Department will permit our negotiators in Geneva to agree with the Russians to keep the West German finger off the nuclear trigger, I am convinced that a treaty to stop the spread of nuclear weapons remains a live possibility."

III. NONPROLIFERATION TREATY

There are only a few significant differences between the very short American and Russian draft treaties on nonproliferation. They are:

1. The American treaty contains language which would permit a NATO force including West Germany to have control of nuclear weapons. This might be an MLF, ANF, or any variant thereof. The United States insists that before such a force could actually fire a nuclear warhead the consent of the United States would have to be given, and, accordingly, this provision does not result in the proliferation of nations having a nuclear capability.

The Russians consider this provision totally inacceptable. They are aware that nuclear warheads are presently mounted on German aircraft deployed at German airfields intended to be flown by German pilots. They are not satisfied with the explanation that the aircraft are physically guarded by American troops and that the nuclear weapons are under electromechanical lock which can only be opened by American custodians acting on Presidential authority.

While the American draft provides that "control" of nuclear weapons shall not pass to a nonnuclear nation (except as noted above) "control" is defined as the right or ability to fire. It should be noted, however, that the U.S. draft also prohibits the "ownership or possession" of nuclear weapons by a nonnuclear power. It does nonetheless contemplate the training of NATO forces, including those of West Germany, in all of the procedures for installing and firing nuclear warheads. The only prohibited activity is the actual firing and, there again, the moment the United States remove its veto the Germans would have a complete nuclear capability limited only by the number of warheads to which they were given access.

The Russians contend that these arrangements, in addition to being objectionable on other grounds, violate the Potsdam agreements.

2. The Russian draft treaty, on the other hand, obligates the parties not to transfer nuclear weapons "directly or indirectly, through third states or group of states, to the ownership or control of states or groups of states not possessing nuclear weapons and not to accord to such states or groups of states the right to participate in the ownership, control, or use of nuclear weapons." The Russians definition of "control" is considerably broader than the American.

There is also a prohibition against a nonnuclear state controlling the "emplacement" of nuclear weapons which might well eliminate from West German control any determination as to where on its soil nuclear weapons, delivery vehicles, or warheads might be located.

In a talk I had with Ambassador Roshchin of the Soviet Union, also attended by Mr. Foster, the Soviet representative indicated that the Russians were prepared to discuss amendments to their draft and were flexible with respect to its provisions. This comment came in response to my remark that surely any sovereign nation had a right to decide where nuclear weapons would be "emplaced" by an ally on its territory. The fundamental and, in my opinion, unchangeable objection of the Russians to a nuclear nonproliferation treaty is the U.S. desire to maintain an option under which nuclear sharing with West Germany would be permitted through the NATO alliance. If we were prepared to agree that West Germany should be denied, both individually and through NATO, the "ownership, control, and use" of nuclear weapons, and if their "access" to such weapons were no greater than at present, a treaty in which Russia would join might well become feasible.

3. In this connection I do not believe Russia would, in the end, balk at the McNamara proposal for a NATO group to include West Germany which would meet periodically to consider nuclear tactics and strategy. This view is shared by a number of the representatives of other countries at Geneva.

In short, our problem is to choose between agreement with the Russians to join in a major effort to prevent the further spread of national nuclear capability or to continue to flirt with schemes such as MLF, ANF, and the actual sharing of nuclear weapons with West Germany.

I have no doubt that both world peace and our own national security interests strongly impel us to the former course.

4. Neither the United States nor the U.S.S.R. draft treaties call for any contribution by the two nuclear giants toward stopping or reversing the arms race. The emphasis is all on prohibiting nonnuclear countries from achieving a nuclear capability and pledging the nuclear countries to refrain from assisting them to acquire it.

Several of the more advanced nonnuclear countries are insisting that Russia and the United States agree to a comprehensive test ban treaty, agree to a freeze or cutoff in the production of fissionable material and nuclear delivery vehicles, and arrange to turn over an undetermined amount of nuclear materials for peaceful purposes. The United States has made a definite proposal along these lines but it has received a cold reception from Russia on the ground that the verification required would constitute "espionage." Actually, this contention is largely untenable since we know, through intelligence sources, where the Russian plants and reactors used to provide material for nuclear warheads are located and the techniques for assuring that no cheating would result are quite simple and require a minimum of surveillance and on-site inspection. An excellent speech outlining our proposal, made by Mr. Foster on April 14, 1966, is attached to this report.

Technically, it would not be necessary to incorporate the freeze or cutoff in the language of the nonproliferation treaty. The undertaking could be set forth in a separate document signed by the United States, the U.S.S.R., the United Kingdom, and, hopefully but not likely, France.

5. The vexed question of "guarantees" against nuclear attack to be extended to the nonnuclear powers by the nuclear powers as part of a nonproliferation treaty has also come in for considerable discussion. Some of the "nonalined" countries do not wish such a guarantee, as it might be construed as putting them under the protection of the two great nuclear powers. However, the Western group on the one hand, and the Soviet bloc on the other, would be interested in having such a guarantee. As I understand it, no consensus has developed as yet on this question.

There is a general feeling in Geneva that France, Great Britain, and China are such relatively unimportant factors in the nuclear field that their accession to a nonproliferation treaty would not be essential to its feasibility. And, of course, in any event Great Britain would no doubt join. The nuclear capability of both the United States and the U.S.S.R. is of a different order of magnitude to that of the other nuclear powers.

I conclude that a certain amount of flexibility on the part of the United States with respect to our relations with West Germany could well make a nonnuclear proliferation treaty possible. Similar flexibility on the part of the U.S.S.R., including a willingness to permit the IAEA to conduct inspections to verify an agreed cutoff and the transfer of nuclear material for peaceful purposes would insure the adherence of most, if not all, of the nonnuclear nations to such an agreement.

Neither of these conditions, in my opinion, is impossible to meet if we persevere and if we create an informed opinion on the subject among both the peoples and the leaders in the countries concerned.

Mr. JAVITS. Mr. President, I ask unanimous consent that I be recognized for 6 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 6 minutes.

THE BASIC DEFICIENCY OF THE VIETNAMESE ELECTIONS

Mr. JAVITS. Mr. President, I feel compelled to speak out again as one parliamentarian to fellow parliamentarians in Vietnam on the Vietnamese elections. In my judgment the public debate on this question seems to have missed the main point and to have centered on procedural

questions concerning the mechanics of campaigning and ballot casting. The basic policy questions have been largely ignored.

In my judgment, the basic, glaring, and continuing deficiency of these elections is the apparent absence of a deep feeling of national involvement and decision-making on the part of the Vietnamese candidates and voters alike. The momentum of history demands that these elections be conducted as a crucial act of self-determination—as a testing time for the South Vietnamese to debate and decide their own future. Yet, the reports we receive indicate widespread voter apathy, small crowds passively viewing trite, set-piece debates, yards of rhetoric devoted to ad hominum attacks and counterattacks, and a considerable silence—indeed, a thundering silence—on the basic issues concerning the national will and future of South Vietnam.

The agony of Vietnam is great. Its people have been stifled by oppression, in varying garbs, for centuries. The crucible of war has brutalized its national life. There is now a hiatus and a chance for self-expression and self-determination. The whole world—and none more anxiously than the American people—is watching and listening for the Vietnamese people to speak out.

The historic importance of the occasion calls for a deep and passionate national referendum. The apparent failure of the Vietnamese to be stirred by this challenge and to rise to this occasion is a cause for deep regret in my view.

In diverting attention in this country to procedural questions concerning the mechanics of the campaign, and in implying that we should not expect too much—indeed, implying that we should be happy with whatever we get—I think the administration does itself and the issue a real disservice.

I, for one, have never demanded perfection, nor am I particularly interested in rating mechanical aspects of the campaign against the scale of what happens in advanced Western democracies such as our own.

I would be very encouraged by a rough and tumble campaign of the sort we have had during critical periods of our own history. All the niceties were not observed in those days, but there was a passionate national debate which revitalized our Nation.

It is for this reason that I am also distressed by any labeling of the elections as a fraud or a farce, much as I can understand the exasperation which has produced those words.

Getting down to cases, the conditions under which the Vietnamese elections will be held are now fixed. The decision has been made to hold to the September 3 polling date notwithstanding my own judgment that it would have been better to defer the polling for a period of time to permit a more extensive and meaningful campaign.

The President of the United States has designated 20 observers, hopefully now to be led by a truly outstanding national leader as chairman—whose name has not yet been announced—to observe the elections on the ground in Vietnam. It is therefore essential to put the situation in focus.

I regret the decision of the authorities in Saigon not to defer the polling date to permit a more intensive campaign and a better informed electorate. But, that is now water over the dam. So, too, are the inequities and unfairnesses which have tarnished various aspects of the whole election process. Although the U.S. observers appointed by the President do not constitute the blue ribbon commission which I urged in a speech in the Senate on July 13, they represent at least a belated effort in that direction, and they should help to avoid glaring and obvious abuses in the balloting itself.

Certainly those who are serving on the President's Commission are Americans of real distinction and are entitled to the appreciation of the Nation. Their distinction lends the added likelihood of usefulness in their work, although, as I have pointed out, they will not deal with the gravest deficiencies of this election.

Notwithstanding the deficiencies in the election, and the claims on the one hand that we ought to be satisfied with what we get, and the claims on the other hand that the whole thing is a fraud and a farce, we must take the campaign for what it is, and try to make the best of it. The American observers will not be members of a blue ribbon commission. They will be appointed observers, and they will do the best job that they can do.

The key question which must be flagged to the Vietnamese people—and, even more importantly, to the American people—is that whatever may be the imperfections, this election is still going to be important for the future of America and Vietnam.

The key question—and I state this very, very advisedly, because it is very important in my judgment—is that what happens in the elections and the ensuing 6 months to a year will vitally affect American policy, and determine what options we are going to take in respect to Vietnam.

Mr. President, there is no reason for writing off these elections. There is still the encouraging precedent of the elections held in September of 1966 for the Vietnamese Constituent Assembly. There was a large and meaningful turnout of voters at that time. This gives us the hope that the silent, stifled voice of Vietnam will still be recorded at the ballot box come September 3.

Mr. President, it is necessary again to emphasize to the American people the critical nature of this opportunity for self-determination, as I am convinced it represents a turning point in the whole Vietnamese war. It is important that this be recognized on both sides of the Pacific.

For the United States, the elections represent the first opportunity since we began to take a major military part in the struggle in 1965 to regain the options which we mortgaged in that period—and the mortgage was sealed at the Honolulu conference in February 1966, between President Johnson and Premier Ky.

These options are to determine the size and scale of our military operations in Vietnam and to condition them upon the standards set by President Eisenhower 13 years ago in his letter offering assistance to the South Vietnamese government.

Mr. President, I repeat that the options we might regain as a result of this election are to determine the size and scale of our military operations in Vietnam and to condition them upon the standards set by President Eisenhower 13 years ago in his letter offering assistance to the South Vietnamese government.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may have an additional 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. The reason that we regain these options is because our commitment has been to give the people help in establishing an opportunity for self-determination. They now have it and we now have a chance to reclaim option, if we avail ourselves of it.

In that famous letter of President Eisenhower, he said that the U.S. assistance was explicitly conditioned upon the Government of Vietnam's assurances as to the standards of performance it would be able to maintain.

President Eisenhower also described the kind of government we expected to see in Vietnam as a result of our assistance. He used these words:

> Such a government would, I hope, be so responsive to the nationalist aspirations of its people, so enlightened in purpose and effective in performance, that it will be respected at home and abroad and discourage any who might wish to impose a foreign ideology on your people.

For the Vietnamese people this election represents the opportunity to legitimatize their government and then to exercise their national option as to whether or not to admit the dissident elements in the country, including the NLF, on a negotiated basis to end the war and set a new course for the future. It represents their opportunity to shake up their civilian administration, to implement land reform in the country, and to satisfy other demands of their people. It represents also the opportunity to shake up the army, to make it a real fighting force, capable of effective action in pacification and in combat with the enemy regular forces. This latter burden has fallen too heavily on our shoulders.

For these reasons I have called these elections—and I repeat the phrase—"the beginning of an end in Vietnam." Potentially, they represent the opportunity through which the present stalemate can begin to be broken. After these elections, the United States will have open to it three paths: first, a political settlement based on a strong Saigon government, which I hope, pray, and urge will be the result; second, all-out war, and that certainly will put us in the position of a colonial power in Asia, and I am against it and I believe most of the country is; third, seeking the best terms we can negotiate for our disengagement—that would certainly be a deplorable and unhappy prospect for us.

Mr. President, which path we will take will be the most portentous national decision since our own elections in 1952,

which brought an end of the Korean war. Our choice may well determine the position of the United States in the world for a generation, yet it will be heavily based upon how the government which is elected on September 3 operates.

That is what I believe needs to be impressed upon the Vietnamese people, so that they understand the historic seriousness of the election; and it certainly needs to be impressed upon the American people, so that they understand the options that they have at that time, so that they determine that they will have them and will exercise them, so that we may truly mark a beginning of the end of our venture in South Vietnam.

SENATOR MANSFIELD UNIQUELY HONORED

Mr. BYRD of West Virginia. Mr. President, the Evening Star, of Washington, D.C., this afternoon carried a moving account of the richly deserved tribute paid to our Senate majority leader, MIKE MANSFIELD, last evening in recognition of his 25 years of congressional service.

Those of us who serve with him daily here in the Senate know full well that the worth of his labors in behalf of our Nation and its people cannot be accurately assessed. But it is a source of gratification for all of us who admire and respect him for his tremendous abilities and complete selflessness to see measures of recognition accorded to him.

Much that Senator MANSFIELD accomplishes, and much that he means to the progress of the work of the Senate, is visible to the eye. Much that he represents and that he unstintingly gives in service to our country is known to but a few. It is good, then, to see that his worth will receive a measure of recognition in the future, in a manner which I feel sure he will most appreciate—the offering of future opportunities to other Americans to broaden their capacities.

The establishment of the Mansfield lectures in international relations, by the University of Montana Foundation, is a unique manner in which to honor Senator MANSFIELD. It is a conception which I believe to be personally compatible to Senator MANSFIELD'S nature as a public leader.

I consider it a great privilege to have been his associate in the work of the Senate. I am happy to have future opportunity to hear his reasoned approaches toward discharging our legislative responsibilities and to witness the spirit in which he faces the problems and, all too often, the burdens of his position.

His speech of acceptance of this citation of honor, noting the establishment of this new program in the University of Montana, is typical of the tremendous breadth of his capacities.

I am pleased to be able to add my congratulations to those of the hundreds of thousands of well wishers throughout our United States, in testimony to Senator MANSFIELD'S effective service in the Congress. It is my hope that this will be a source of inspiration to all those who will in the future, be privileged to participate in the lectures to be given in his honor. As discussed in the article, "VIP's and Tears for MANSFIELD," reported by Betty Beale, in the Evening Star, MIKE MANSFIELD, of Montana, is man of great courage and conscience.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the newspaper article was ordered to be printed in the RECORD, as follows:

VIP'S AND TEARS FOR MANSFIELD: A TRIBUTE TO MRS. MANSFIELD

(By Betty Beale)

Mike Mansfield—Montanan, majority leader of the Senate, man of courage and conscience—brought tears to the eyes of some of his colleagues last night.

It was his deep sincerity and humility, so well known and respected, that touched them at the huge dinner in his honor at the Sheraton Park.

"I wish I could have conveyed to you the thoughts of my mind and the deep feelings in my heart," he said in the wind-up of his own remarks. "But words are inadequate when the mind and heart are too full."

Mrs. Lyndon Johnson, Vice President Humphrey, Secretary of State Rusk, most of the Senate and scores of friends who came from Montana for the occasion were at the testimonial staged by the University of Montana Foundation commemorating his 25 years of service in the Congress and the establishment of "The Mansfield Lectures in International Relations."

Before the speeches were over, toastmaster Chet Huntley read a telegram from Sen. Robert Kennedy announcing the contribution of $10,000 from Mrs. John F. Kennedy, Sen. Edward Kennedy and himself, to the Mansfield Endowment that will provide for the lectures and other educational projects.

Mrs. Johnson, Mrs. John Kennedy and Hubert Humphrey are all founding members of the endowment.

Although there was no intimation that President Johnson would attend, many guests suspected he would make one of his unscheduled appearances. But if the late House session over the foreign assistance bill could keep Rep. Carl Albert, co-chairman of the dinner, from getting there, it probably also kept L. B. J. close to the telephone on his White House desk.

A glowing letter from the President was printed in the dinner program.

If the President had come there is no telling where he would have been seated. Mansfield, for whom the thousand or so in the big ballroom had turned out, was so close to one end of the head table that the spotlight on the center missed him by 10 or 15 feet.

"I think there was some confusion about the protocol," admitted Rusk when asked about the seating.

The First Lady added: "I had to look all around to find him."

As for Mrs. Mansfield, she was seated toward the opposite end from her husband, below two private citizens without official rank, Jim Rowe and Tippy Huntley. And the five foreign ambassadors present were grouped together with no women and no Americans between them.

When the president of Montana University, Robert Pantzer, who as host, sat between the First Lady and the toastmaster, was finally introduced he acknowledged the introduction then walked down to where Mansfield was seated and made him change places with him. Only then did the spotlight fall on the guest of honor.

Senate Minority Leader Everett Dirksen (who also was seated above the majority leader) led off the speeches in his mellifluous bass, combining wit, drama, poetry and affection in an off-the-cuff tribute.

Said Dirksen: "Montana is the treasure state. That's what they call it, and it has at least four treasures—antelopes, copper, dude ranches and Mike Mansfield."

He revealed that after he was elected minority leader, Mansfield had come to him and said: "If you hadn't been, I doubt if I would have accepted the majority leadership."

"Could there be any better proof of friendship?" asked the Illinois solon, who said of Mansfield:

"He puts Horatio Alger to shame. . . . A mule boy in a copper mine in the Butte community. Enlisted in the Navy at 14." Afterwards he enlisted in the Army, then in the Marine Corps.

"That should have frightened the kaiser out of his wits."

After that he was copper miner, a professor, then a congressman and a senator.

He listed Mike's greatest qualities as superb patience—"I have never seen him out of sorts or irritated"—unfailing courtesy and humility.

"People have said on occasion: 'He is at odds with his President.' No, he is not. Deep within him there is a compelling passion, and his soul has to respond to it."

Vice President Humphrey brought instant laughter when he spoke next.

"Being vice president alone gives you a sense of humility," he said. "To follow Ev Dirksen just underlines it."

Before dinner, he continued, he had been talking with Secretary Rusk, and Rusk asked him what the lectures were to be called.

"I told him 'The Mansfield Lectures on International Relations.' The secretary looked at me gravely and asked: 'Hubert, you mean there are more to come?' "

Mansfield's disagreements with Rusk on foreign policies are well known.

HH said Mike has asked him to give the first lectures. "He thought I was the only man he knew who could actually stand up and lecture for two weeks."

"We honor one who understands the meaning of quiet power that is used sparingly; a man who is gentle but is firm and can be tough; wise but can be forgiving of others' mistakes true to himself, his conscience and everything he believes in."

University President Pantzer said the very use of Mansfield's name had assured the success of the program.

"Never before in the great Northwest have we had the opportunity to bring to the campus the outstanding figures this program will allow."

He presented the senator with a plaque of great taste and simplicity. The citation was engraved on a metal plate that looked like unpolished silver, below a cutout of his state in the same metal with a Montana sapphire spotting the location of Missoula, home of the university.

Mike's speech was a poetic, inspiring picture of what Montana meant to him. It began: "To me Montana is a symphony."

And it went on to say why—in its colors, its wild flowers such as dogtooth violets, Mariposa lilies, bitterroot and kinnikinnick; in its sounds and names—the Bear Paws, the Crazies, the Kootenai, Hungry Horse and Absarokee.

He gave the history of Montana with the kind of feeling that no chamber of commerce could emulate. He took his friends' breath away when he told them the distance across his state is the same as from here to Florida.

"In area we can accommodate Virginia, Maryland, Delaware, Pennsylvania and New York and still have room for the District of Columbia."

With only a million people in all that space, Montanans have room to think, he said, and to dwell on the nation and the world.

Then he paid a moving tribute to his wife. Other men try the same sort of thing in public speeches, but with Mike Mansfield there was the ring of sincerity.

"I should like this honor to go where it is

most due—to the woman who set out with me from Butte so long ago and who has remained a wise counselor and steadfast inspiration through all these years. Without her, I would not be in the Congress of the United States. Indeed, I should not have reached the University of Montana or, for that matter, even received a high school certificate. A more appropriate title for the lecture series, therefore, would be 'The Maureen and Mike Mansfield Lectures.'"

Any excess monies, he suggested, should go to scholarships for Montanans and to the first Americans of the state, "my friends and brothers, the Northern Cheyennes, the Crows, the Flatheads, the Assiniboines, the Blackfeet, the Chippewa-Crees, the Landless."

The romance of the West was in his every word.

MICHAEL J. SCHOONJANS—FOREMOST LEADER

Mrs. SMITH. Mr. President, one of the truly great leaders of the labor movement is retiring. He is Michael J. Schoonjans, manager of the Biddeford-Saco Joint Board of the Textile Workers Union of America and international vice president of the Textile Workers Union of America, AFL–CIO.

As he is very respectfully, admiringly, and fondly known, Mike Schoonjans has been a great leader not only for the members of his union but for the people of Maine and for the textile industry as well.

It was Mike Schoonjans who spearheaded the drive for an economic comeback for the Biddeford-Saco area of Maine when he led a very impressive and powerful delegation of union leaders, industry leaders, and civic leaders from Maine to my office in 1958 for an intensive conference of many hours with top Federal Government leaders on getting business for that area.

Out of that meeting in 1958 came an unbroken series of Government procurement contracts for the Biddeford-Saco area that swelled and stabilized the payrolls there.

One of the great strengths of Mike Schoonjans is that he called the issues as he saw them. He was never a blind tool and puppet to a labor political policy of supporting only one political party and only the nominees of that one political party. Instead he supported the friends of labor regardless of their political affiliation.

Another great strength of Mike Schoonjans is his personal warmth and his dedication to his fellow men and to making their lives happier and more healthy. His qualities of leadership and humanitarianism have endeared him to thousands of people in, and outside, the labor movement.

He is irreplaceable. Both the labor movement and our country desperately need more leaders like Mike Schoonjans. His retirement will be a great loss to everyone.

An excellent article has been written about this great leader by Maxwell Wiesenthal. It appeared in the May 21, 1967, issue of the Portland, Maine, Sunday Telegram. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNION LEADER SAYS IT'S TIME FAMILY SAW MORE OF HIM

(By Maxwell Wiesenthal)

BIDDEFORD.—Mike Schoonjans, the peppery textile union leader who'll retire Sept. 1 after three decades of battling for his members, intends to spend all of his leisure time with his family.

"I owe them that much," said Schoonjans. "For 30 years they haven't seen much of me."

The blue-eyed, blond haired, medium built manager of the Biddeford-Saco Joint Board of the Textile Workers Union of America, AFL–CIO, has carved his niche not only in the state labor movement but in the national textile field as well.

He was a field representative for the international for 10 years before being assigned to the Biddeford unions.

"I've had my share of scuffles, battles and talkfests," he said.

Reflecting on his two decades as textile labor chieftain for southern Maine, he termed the first 10 years stormy and the last 10 years peaceful.

During the stormy years—1940 to 1950—Schoonjans led the workers of the Pepperell Manufacturing Co. and The Edwards Division of the Bates Manufacturing Co. on a strike to prevent a wage cut.

The Bates strike lasted two weeks, the Pepperell strike 13 weeks. In each instance the employer agreed to rescind the wage cut. That was in 1955.

During Schoonjans regime he saw the area union membership drop from a high of 6,000 to a low of 1,600. About 3,300 now are affiliated with the TWUA.

There are locals now at Pepperell, Saco-Lowell Shops, Eastern Plastics Corp., Sanford, and the Ed Delorge Baking Co.

The workers of the baking company had petitioned the union to represent them, Schoonjans explained. "That's why they're part of us even though they're not textile workers. It's good industrial union policy."

The union suffered its biggest blow in 1957 when the Bates mill closed in Biddeford. Fourteen hundred lost their jobs.

Schoonjans fought hard to retain the mill. He worked closely with U.S. Sen. Margaret Chase Smith to have Congress enact a law which would have permitted domestic mills to buy cotton eight cents a pound off the prevailing price, which was the concession given to foreign mills.

Schoonjans was the only Mainer to testify in behalf of the measure before a Senate committee. Mrs. Smith worked hard for the bill and it received Senate approval. It died in the House.

As a result Bates closed the mill, Schoonjans said, because it could not compete with foreign imports.

The second blow was when the Saco-Lowell Shops moved its textile machinery division to South Carolina. Some 3,000 members were lost as a result.

But Saco-Lowell is back "full blast" in Saco and the union is as strong as ever at the plant.

"You know," Schoonjans said, "that's why our union and I personally have supported Mrs. Smith. We believe in supporting our friends and Mrs. Smith has been our friend."

Schoonjans, a registered Democrat, said he's supported other Republicans like Stanley R. Tupper. In fact, he said, he changed his registration to Republican to work against Owen Brewster in his primary fight with Frederick G. Payne for the GOP Senate nomination.

After the primary Schoonjans re-registered Democratic.

In addition to heading the Biddeford-Saco joint board, Schoonjans is a vice president of the international union and has done some "ticklish" jobs for the international.

Included were investigations of locals and the personnel heading them.

For eight years he served on the State Board of Conciliation and Arbitration, and he presently is a member of the Apprenticeship Council.

Come Sept. 1 and Schoonjans said he'll "play it day by day."

"I have a home in a good workingman's neighborhood in Old Orchard Beach and a summer camp in a good workingman's section of Kennebunk Lake," he said. "How can I not be happy being among friends."

He said he owes his wife and daughter Geraldine "a few years because I've devoted most of my life to other people, now they're entitled to something."

MICHIGAN NATIONAL GUARD

Mr. GRIFFIN. Mr. President, on Tuesday, Gov. George Romney released the texts of three letters dealing with the organization, strength, and training of the Michigan National Guard.

Mr. President, I ask unanimous consent that the text of the three letters be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AUGUST 22, 1937.

Maj. Gen. WINSTON P. WILSON,
Chief, National Guard Bureau,
Washington, D.C.

DEAR GENERAL WILSON: I have studied the Army National Guard Allotment of Troop Units to the State of Michigan, dated August 10, 1967, along with my Adjutant General, and find it to be totally unacceptable for each of the following reasons:

1. *Strength:* The new allotment gives Michigan nine per cent or 717 less strength in committable units on the same maximum basis as recent Detroit commitments. It also forces the loss of 90 well-qualified officers at a time when recent experience dictates even greater numbers are required. Experience in Watts, Newark and Detroit convinces me that a force of 12,000 Army National Guard with the command, control and support elements required to conduct sustained operations in two urban areas is the minimum requirement for the State of Michigan. In view of Michigan's relative contribution to defense production, the Federal Government should support this requirement in its own interest and in order to preclude certain commitment of strategic defense forces.

2. *Command and Control*

a. Planning must envision commitment of the entire Michigan Army and Air National Guard. Employment of such a force is beyond the capability of any staff available in the proposed troop allotment—State Headquarters and Headquarters Detachment with augmentation, brigade, or group. It was found that each general and special staff officer and his section were fully engaged in Detroit during the five-day period of intense activity, and during the five-day cooling period and the four-day phase-out period as well. In most cases, they now face a mountain of post-mobilization work and planning for future employment.

It must be noted that we plan not only for a most complex employment over a sustained period, but also for possible federal service with the attendant flood of administrative and legal requirements involving all of the special staff. It seems clear to me that a jerry-built staff will not suffice and that nothing less than a headquarters with a division staff capability is adequate in this state.

b. Similarly, with three brigades employed and with four other command and support locales, it is evident that the division signal battalion capabilities most properly fill the

needs of the tactical headquarters for controlling its operating forces.

c. The critique comments of the Commander and Deputy Commander of Task Force Detroit, and the staff structure they provided for themselves, are eloquent testimony to the inadequacy of the command and control elements provided by the August 10 troop allotment to Michigan.

3. *Support:* During the normal Annual Field Training and during the Detroit operation, the Division Support Command (Supply and Transportation Battalion, Maintenance Battalion, Administrative Company), was fully committed and fully engaged in sustaining the continuous operations. The support structure in the August 10 allotment is inadequate to the diversity of units and strength to be supported, it is inappropriately lacking in forward support units for brigade and groups, it lacks medical support, it lacks administrative and finance support, and it lacks the command and staff direction provided by the Division Support Command.

The State of Michigan is ranked seventh in population in the United States. The nine per cent of the population which is nonwhite is concentrated largely in cities, giving a city like Detroit, for example, 29 per cent non-white population. We have nineteen cities with a population over 45,000. We are sixth in the nation in manufacturing employment. Our defense product ranks high and is basically vital. Yet our proposed troop strength is only fifteenth nationally, and we are to be deprived of adequate command, control and support means for our forces while sister states with less requirement retain these means.

I have no alternative but to reject your proposals under the circumstances which now face us. We must accept the realities of the wholly new situation facing our metropolitan and manufacturing areas. We cannot accept less than retention of a division-type headquarters and the necessary combat and combat support battalions required by this new concept.

I feel this requirement is as justifiable for the proper management of the normal training mission as it is for emergency employment.

Sincerely,

GEORGE ROMNEY.

AUGUST 22, 1967.

HON. F. EDWARD HÉBERT,
Chairman, Special Subcommittee of the Committee on Armed Services, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I have just forwarded a letter (copy attached) addressed to Major General Winston P. Wilson, Chief, National Guard Bureau, wherein I outlined my objections to the recent proposal to reorganize the National Guard. In this letter I informed General Wilson that the troop allocation and structure of forces proposed for the State of Michigan was totally unacceptable.

My reasons for refusing the proposed allocation refer not to the capability of the Michigan National Guard to cope with civil disturbances, but rather to the resources of the National Guard. In my estimation the Michigan National Guard performed with honor and distinction during the recent civil disturbances in Detroit. They were handicapped by late commitment, lack of equipment, and a type of riot duty never before encountered. I refer, of course, to the unprecedented sniping, looting and arson that was prevalent in this crisis. I consider that the 46th Division showed itself to be capably staffed, that they conducted their operation well, and that the men responded with the skill required to do the job.

With direct reference to the questions posed in your letter and enclosure, my views and comments are as follows:

1. I find the number of troops allocated the State of Michigan inadequate in number. In Detroit we were totally committed with all *available* ARNG, a strength of approximately 8,200. With the chance of disturbances happening simultaneously in several cities, I feel the minimum strength required in Michigan will be not less than 12,000 Army National Guardsmen.

2. The physical location of militia within the state must be determined by the population in the prospective area. It is felt in conjunction with this question that 75–80 per cent strength units would be more flexible as to location than would 90–100 per cent strength units.

3. The Unit Structure proposed for our state is also inadequate in that no command and control elements are available for a force structure commitment greater than *one* brigade (Strength 3363). The August 14 allotment of Troop Units gives Michigan a Divisional Brigade, an Engineer Group with two battalions, field Artillery Group with two battalions, and four separate battalions and two separate companies and detachments, but no means to command or control these organizations were they committed in a force larger than a brigade or group. Another deficiency in this allocation is a lack of tactical communications support, administrative support and logistical support. In our present troop structure the 46th Infantry Division, its Headquarters and its organic administrative and logistical units provide for this support.

4. I believe it is quite well known that the Department of Defense has not been able to fulfill its promises of equipment, even for the Selected Reserve Force. This lack is centered in communications, electronics, obsolete tactical transportation and obsolete weaponry.

5. As to training, and any deficiencies along this line, I can only point with pride to the accomplishments of the Michigan National Guard on all missions assigned, whether US Army evaluated training exercises or natural disasters or civil disturbances. They have always conducted themselves like professionals.

6. The National Guard is immediately available and responsive to the Governor legally and physically for any state emergency. In my letter to General Wilson I pointed out the responsibility of the Executive Office to maintain law and order and to quell riots. For a strong, responsive force to back up local law enforcement, the National Guard of the several states must be kept at such strength as to assure the capability of each governor to fulfill his constitutional responsibility of the protection of his state.

7. We have had for some time within our state, plans and procedures to utilize the National Guard in one city, or in several cities at one time, if necessary. Also we have a plan to split law enforcement and National Guard into many points of unrest or together, utilizing the State Police in one area and having the National Guard responsible for another area. At no time have we planned on the use of Federal military assistance, nor shall we.

8. Purposely I have stayed away from comments with regard to Federal Troops. I know that they are available and somewhat responsive, realizing the fact that upon commitment of Federal Troops, the governor loses all control of the situation and that a representative of the President then becomes, in fact, the commander of the area. I should point out, though, that I feel the call for Federal assistance should be made less complicated and the circumstances under which Federal military assistance may be made available and utilized should be clearly and explicitly written.

I would like to take this opportunity to commend you, your sub-committee members, and the Chairman of the House Committee on Armed Services, Congressmen L. Mendel Rivers, for the prompt, vigorous action he and your sub-committee have taken in this matter of effectiveness, training, equipment and strength of our National Guard.

Sincerely,

GEORGE ROMNEY.

AUGUST 21, 1967.

HON. JEROME P. CAVANAGH,
Mayor, City of Detroit, Detroit, Mich.

DEAR MAYOR CAVANAGH: I have been informed that the Michigan National Guard has received the information concerning the training referred to by the President. All units of the National Guard are undertaking 32 hours of training in Riot Control measures, including the new areas of concern brought about by the Detroit Riot. This training is scheduled and will be completed by October 1, 1967.

Your recommendation of a simultaneous test of mobilization deployment and command procedure is excellent. I know that there are 16 hours of Staff Training along with the 32 hours of general training scheduled. I am sure that just such an exercise is planned with the Detroit City Police, Michigan State Police and National Guard in joint attendance.

Commissioner Girardin will be informed shortly, I am sure, of the above mentioned exercise.

Sincerely,

GEORGE ROMNEY.

DISSENT OR DESTRUCTION?

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to insert in the RECORD an article by Eric Sevareid, entitled "Dissent or Destruction?" which appeared in the September 5, 1967, issue of Look magazine.

There being no objection the article was ordered to be printed in the RECORD as follows:

DISSENT OR DESTRUCTION?

(By Eric Sevareid)

These are odd times. Tens of thousands of Americans of every age, color, sex, and economic and intellectual condition are daily and hotly invoking every right and privilege mentioned in the Constitution, the Bible and Bartlett's *Familiar Quotations*. Others are busy invoking self-serving "higher laws" to supersede the national rulebook. None of them seems familiar with the words "duty" or "obligation."

The production curve on putative saints and martyrs has been rising rapidly possibly in direct proportion to the availability of press and TV cameras. The country bears the aspect of one vast wailing wall, washed down daily with tears of the self-pitying.

The general import of their varying messages, taken as a whole, seems to be that: all American policemen have joyfully renounced their days off in order to bludgeon Negroes as a wholesome exercise; the armed services of the United States, drunk with bloodlust, eagerly notch their guns for every Vietnamese civilian they kill; administrators burn the midnight oil in order to conceive new ways to coerce, threaten, silence and otherwise "alienate" that oppressed *lumpenproletariat*, American college students.

And all the while, a mysterious group known as the "Power Elite" or the "Establishment" sits in Washington, New York, Chicago and Los Angeles, fat cigars in one hand, telephones in the other, engaged in a round-robin conversation featured by chortling remarks, such as "Hi, fella, how many of the downtrodden did you trod on today?"

As a result of all this, the familiar quotation that comes first to mind for an increasing number of other Americans is one of the

opening lines of *The Man Who Came to Dinner*.—"I may vomit."

Still others who believe firmly in free speech can no longer find the strength even to murmur Voltaire's celebrated remark that while he disapproved of what you say, he would defend to the death your right to say it, because they are already half-dead—with boredom.

When we reach the point, which we have, where an organization is formed, called "Proxy Pickets," to rent out picketers for any cause at so much an hour, then we know that the fine, careless rapture of this era of protest is all over and that the corruption of faddism has begun to set in. Every movement becomes an organization sooner or later, then a kind of business, often a racket. This is becoming the age of the cause Cause. Kids will soon be hanging around back lots trading causes the way they used to trade aggies.

One of the oddest things about the period, no doubt, is that anyone like me should feel moved to say these things. I have always believed in the Negro "revolution," if that's the right word. I have not believed, for some time now, in the Vietnamese war because to me the official rationale for it simply does not add up, and as a college kid in the thirties, I was a hollering "activist" and even voted for that Oxford oath—"I will not fight for flag or country" (though I couldn't sleep that night for doubts about it, which will merely prove to today's hip set that I had the seeds of squaredom in me at an early age).

But it seems clear to me now that a high percentage of today's protests, in these three areas of civil rights, the Vietnam war and college life—all of which commingle at various points—have gone so far as to be senselessly harming the causes themselves, corroding the reputations of the most active leaders and loosening some of the cement that holds this American society together. There never was any real danger that this country would find itself groaning under Fascist oppression, but there is a measure of real danger that freedom can turn into nationwide license until the national spirit is truly darkened and freedom endangered.

The notion is abroad that if dissent is good, as it is, then the more dissent the better, a most dubious proposition. The notion has taken hold of many that the manner and content of their dissent are sacred, whereas it is only the *right* of dissent that is sacred. Reactions of many dissenters reveal a touch of paranoia. When strong exception is taken to what they say by the President or by a General Westmoreland, the dissenters cry out immedately that free speech is about to be suppressed, and a reign of enforced silence is beginning.

What is more disturbing is that a considerable number of liberal Left activists, including educated ones, are exhibiting exactly the spirit of the right-wing McCarthyites 15 years ago, which the liberal Left fought so passionately against in the name of our liberties. For the life of me, I cannot see the difference in morality between the right-wing woman in Texas who struck Ambassador Adlai Stevenson and the left-wing students and off-campus characters at Dartmouth College who howled down ex-Governor Wallace of Alabama and tried to smash his car.

The use of force to express a conviction, even if it takes so relatively mild a form as a college sit-in that blocks an administration building, is intolerable. When Dr. Martin Luther King, who may well be one of the noblest Americans of the century, deliberately defies a court order, then he ought to go to jail. Laws and ordinances can be changed, and are constantly being changed, but they cannot be rewritten in the streets where other citizens also have their rights.

I must say that, kooky as we may have been in that first real American student movement in the thirties, we never, to my memory even dreamed of using force. We thought of the university, much as we often hated its official guts, as the one sanctuary where persuasion by reason must rule alone and supreme, if the university itself were to be preserved from the outside hands of force and unreason. What makes today's college activists think they can take the campus forcibly into national politics without national politics—in the form of police or legislature or troops—forcibly coming onto the campus? (Some of the activists, of course, are pure nihilists and *want* this to happen, but that's another story.)

The wild riots that have exploded in the Negro areas of American cities the last few summers should not be confused with protest movements. Most of them do not even deserve the designation of race riot. We had genuine race riots in Chicago, Detroit and Tulsa nearly half a century ago, whites against Negroes, and mass murders, occurred. Nearly all the recent summer-night riots have chiefly involved Negro kids smashing and looting the nearest property, most of which was owned by other Negroes. This is sheer hoodlumism, involved as its psychological and sociological origins may be. It is a problem for sociologists, psychologists and economists only in the second instance. In the first instance, it is a police problem, as are the episodes of mass vandalism staged by prosperous white kids on the beaches of New Hampshire or Florida. Majorities have a right to protection quite as much as minorities, heretical as this may sound.

If there were no protests at all about the Vietnamese war, the American society would really be in sad shape. We were in this war very deeply almost before the average busy citizen grasped what had happened, and there was no serious congressional debate on the issue until the winter of 1966. The present national disunion, including the disaffection of so much of the "intellectual community," is just what happened in the War of 1812, the Mexican War of 1846–1848, the Spanish-American War and the war in the Philippines that followed. As historian Henry Steele Commager has pointed out, the only wars during which the President had all but universal support were the two world wars, and both were debated and discussed all over the nation for many long months before we got into action.

So the present protests about Vietnam are entirely within the American tradition. Even so, the law, public necessity and human reason must impose certain limitations.

It is outrageous and insupportable for anyone to desecrate the flag, the one symbol of nationhood that reminds all citizens of the country's meaning. It is disgusting for paraders to chant, "Hey, hey, LBJ, how many kids did you kill today?" These deaths in battle are eating at his soul, too, and vulgarities can help no high-minded cause.

It is a crime for rioters to terrorize cities as they did in the disgraceful upheavals in Newark and Detroit.

It is silly for a group of American artists to ask Pablo Picasso to withdraw his famous Spanish Civil War painting, *Guernica*, from the Museum of Modern Art in protest against our bombings in Vietnam.

It is unreasonable to become indignant about the civilian casualties our forces accidentally cause in Vietnam while remaining silent about the thousands of assassinations of civilian leaders by the Vietcong's "murder committees." The President rightly calls this "moral double bookkeeping."

It is unfair to say that some members of Congress don't mind the war because it helps defense industries in their districts, as Senator Fulbright did say—and then apologized.

It is damaging to the national awareness of reality, and to his own name and cause, for Dr. King to declare that the U.S. "is the greatest purveyor of violence in the world," and that "we may have killed a million [Vietnamese civilians]—mostly children." These statements are untrue. The first is a subjective generalization. The second bears no relationship to what civilian casualty figures we have been able to gather.

It is unreasonable to maintain that President Johnson does not *want* a negotiated peace and is intent on a military victory, because to say that is to say he has deliberately and repeatedly lied to the people, and for that, there is no convincing evidence.

If some of the war protesters go out-of-bounds, so do some of the war supporters and counterprotesters:

It is unfair for them to charge that the protesters are "letting the boys down." Serious protesters want to save the boys entirely by getting the war ended, and in the meantime will insist they have every bullet and article of use they require.

For the same kind of reason, it is unfair for the President to imply, as he did, that a Medal of Honor winner died by an enemy weapon shipped down during one of the bombing pauses. Rightly or wrongly, those calling for a pause in the bombing believe it may lead to an armistice saving the lives of *all* our heroes in Vietnam, and while they can only ask for the pause, it is the President who decides it.

It is grossly self-serving for Administration spokesmen to imply repeatedly that our domestic disunion over Vietnam keeps Hanoi fighting on in expectation that we will quit the war. Of course, Ho Chi Minh's regime *hopes* our will is going to break; but the overwhelming American reality they see before their eyes and that surely governs their reactions is our ever-increasing land force and our continuous bombing of the North. I am persuaded that were there no debate whatsoever in this country, Ho's regime and the Vietcong would be fighting just as relentlessly as they are today.

It was pettifogging, and indeed illegal, for General Hershey to support the drafting of young protesters by deliberately reclassifying them 1–A. The draft is not a punitive instrument.

It was pettifogging for state boxing commissions to strip Cassius Clay of his title—even before his conviction—because he refused to accept the draft. If he can lick any man in the world, he's still champion of the world. These silly irrelevancies are counterproductive.

It is wrongheaded for any maritime union to refuse to load or unload a foreign ship because they disapprove of that nation's philosophy or actions. It is hard enough for the Government to conduct foreign policy, without such presumptuous handicaps.

I happen to feel that the experience of American Negroes these many generations is the one deep stain in the American national soul. I cannot help a greater readiness to condone their excesses than those of prosperous white college students (though the law cannot be morally choosy). But there are some basic misconceptions about both.

One is that youths of both colors have been driven to action because their conditions of oppression were becoming intolerably miserable. The reverse is the truth. The barriers to Negro equality were beginning to fall before the period of mass physical action set in; this, in fact, is *why* mass action swept the nation. It is a commonplace now among social historians that change produces revolution before revolutions add to and institutionalize change. Basically, it has not been the street orators and marchers who have been bringing desegregation; for example, the marchers were set in motion by the fundamental changes of principle and law won in the courts by the quiet work of leaders like Roy Wilkins and Thurgood Marshall.

Totally oppressed people, here or in Africa or Asia, do not go into action. It is when the

chains have been loosened, when they see some light at the end of the tunnel, that is, when *hope* is aroused, that the people arouse themselves.

In a certain sense, this pattern also applies to white college students protesting their "alienation" and the "establishments" they feel oppress them. Youth in any generation feels alienated because youth is the precarious, emotionally uprooted stage between childhood and maturity. But while individual youths of any generation are self-conscious because of this biochemical transition, today's collective self-consciousness of the young was not generated by them. The great American "youth cult" was generated by older people concerned with youth, from popular psychalogists to advertising writers who realized that youth for the first time had sizable spending money, to publishers of girlie magazines who realized old moral barriers were giving way—and not, incidentally, from pressure by the young.

It is easy to sympathize with students in the massive institutions who feel they are treated as index-card numbers, not as individual souls, and various forms of decentralization must come about. But these youths will never persuade the graduating classes of the thirties, who faced the quiet desperations of the jobless Depression *and* the unmistakable imminence of a vast world war, that their lot is a tragic one. From my own life experience and travels, I would happily hazard the conjecture that to be young and to be a student in the United States of today is to enjoy the most favored condition that exists for any large, identifiable group anywhere in this world.

But experience, as every parent knows, is scarcely transferable. That hilarious slogan—"you can't trust anybody over thirty"—is, indeed, the explicit denial of the validity of experience.

When I listen to the young vigorously suggesting that if *they* had the governing influence, peace, love, beauty and sweet reason would spread o'er the world, I am tempted to remind them of the barbarities of the Hitler *Jugend*, the Mussolini Youth, the Chinese Red Guards, the Simbas of the Congo—but perhaps that would be overegging the pudding, as the English say.

When I hear the passionate arrogances of a Mario Savio (the Berkeley fellow) or read about hundreds of University of Wisconsin students smashing windows and stopping traffic because they're sore about a bus-route schedule (or was it the price of textbooks?), I mutter to myself a private remark of Winston Churchill's: "I admire a manly man and a womanly woman, but I cannot abide a boyly boy."

If youth were complacent, devoid of the spirit of innovation and challenge, we would be in a bad way because some of the source springs of the American genius would dry up. Yet I think the "generational gap" in viewpoint will always be with us, for this reason: Youth can measure society only in one direction—forward, from things as they are, to their ideals. Older people, by the imperatives of experience, must add two other equally valid directions—backward, to things as they used to be, and sideways, to the other societies in the world they know.

Older people know something else: that the Savios, the Adam Clayton Powells and the Stokely Carmichaels are not, despite appearances, genuine leaders. Because they are not the strong men but the weak ones. They have not the moral stamina for the long haul, with its inevitable routines and periods of boredom. Eloquence, brilliance and perhaps even physical bravery are not what counts in the end. What counts is the quality the Romans defined and respected above all others—*gravitas*, meaning patience, solidity, weight of judgment. As Eric Hoffer puts it, "people in a hurry can neither grow nor decay; they are preserved in a state of perpetual puerility."

Furthermore, it is usually true that the habitual protester, the man with a vested emotional interest in protest, unconsciously does not *want* his goals to be realized. Success would leave him physically bereft. Many successful revolutionaries in other lands had to be replaced as leaders when the new order of life was installed, partly because of their practical incompetence, partly because they continued in one way or another as protesters, as their nature obliged them to do.

There is a great deal wrong with American society of mid-twentieth century. There are some very ugly areas in our life; but never have they been so thoroughly exposed, researched and organized against. Never in our history have we seen an assault on these evils mounted on the level of Federal action to compare with the legislation and programs started under the Kennedy and Johnson Administrations, particularly the latter. Were it not for the creeping calamity of the Vietnam war, Mr. Johnson would, I think, stand revealed to everyone as one of the most vigorously humanitarian Presidents America has had, in spite of those personal crudities that upset the fastidious.

America has never been a frozen, rigid society, caught in conformity. At times we may seem becalmed, but as the Frenchman Jacques Maritain wrote, "Wait a moment, another current will appear and bring the first one to naught. A great country, with as many windshifts as the sea." We are not repeating the experience of Europe, whatever the Marxists and other doctrinists may think. America has eloped with history and run away with it, says Eric Hoffer.

Conformity, mass-mindedness? Go to the totalitarian or to the primitive societies if you wish to see them. Not here. If we live in a web of conforming laws and regulations, it is *because* we are so individualistic, so infinitely varied in our ideas, desires, ambitions and fears, and so very free to express them and to act upon them. Those who despair of getting public action on, let's say, our fearful urban problems, are wrong in thinking this is because "people don't take enough interest in public affairs." It is for the opposite reason; it is because so many groups, interests, points of view conflict. Ask any mayor. Ask any congressman whose desk is daily heaped with windrows of petitions, complaints, suggestions or denunciations.

It is not our freedom that is in peril, in the first instance. We have never had more freedom to speak out, to organize, to read what we choose, to question authority, whether political or cultural, to write, to film, to stage what would have been impermissible years ago. Never has the police authority been more restricted, never have defendants been so girded with legal protections.

Our freedom will be imperiled only if it turns into license, seriously imperiling order. There can be no freedom in the absence of order. There can be no personal or collective life worth living in the absence of moderation. Repeatedly, since the ancient Greeks, people have had to relearn this. Aristotle expressed it no better than Edmund Burke, the Anglo-Irish statesman, who said:

"Men are qualified for civil liberties in exact proportion to their disposition to put moral chains upon their own appetites . . . society cannot exist unless a controlling power upon will and appetite be placed somewhere, and the less of it there is within, the more there must be without. It is ordained in the eternal constitution of things that men of intemperate minds cannot be free. Their passions forge their fetters."

SENATOR BROOKE MAKES STRONG ARGUMENT FOR U.S. RATIFICATION OF GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, in the September issue of the American Legion Magazine, the distinguished junior Senator from Massachusetts [Mr. BROOKE] has presented a persuasive and penetrating case for U.S. ratification of the Genocide Convention as well as the Human Rights Conventions on Forced Labor, Freedom of Association, Political Rights of Women, and Slavery.

Senator BROOKE effectively dispels the fears of those who are reluctant to have the United States join the 70 other nations which have already ratified this first great United Nations convention by writing:

> We need not fear this treaty will represent an infringement of our national sovereignty—it embodies ideals to which we already subscribe in our Constitution and in our laws. Our ratification of this treaty—and all human rights—treaties—would lend further support to the validity of the ideals which they contain as guiding principles in our modern world.

As one who has urged positive Senate action on these conventions 128 times during the 90th Congress, I welcome and appreciate the support of Senator BROOKE. I hope that his compelling arguments will be heeded by the members of the Committee on Foreign Relations and all other Members of the Senate.

I commend the article "Yes the U.S. Should Ratify the Genocide Convention" by Senator EDWARD W. BROOKE to the Senate and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SHOULD THE UNITED STATES RATIFY THE GENOCIDE CONVENTION?

The Genocide Treaty should definitely be supported by the United States.

This United Nations Treaty is designed to prevent by international law the mass annihilation of any group of human beings and to prevent the mass destruction of entire populations. The Genocide Treaty, which was transmitted to the Senate by President Truman in 1949, has already been ratified by 69 other countries, with the United Kingdom soon to join. It has not been ratified by the United States.

Our nation is regarded as a leader of the free world. We desire to share our way of life, our ideals of democracy and individual freedom, with the nations of the world. We believe that moral example and international cooperation are more effective than force of arms in achieving these goals. But we tend to assume that the principles for which we stand are self-evident to the peoples of the world.

This is most decidedly not so. Other nations are strongly critical, and justly so, of our refusal to ratify this treaty. The Soviet Union and its allies point to our position as "proof" that we are not genuinely interested in individual freedom and self-determination.

It is more than our image abroad which is damaged by these charges. Nations which are allowed to doubt our own commitment to the principles which we espouse find further justification in our failures for their own violations of these rights. If we wish to encourage to the fullest the development of democratic societies, then our own commitment to democratic principles must be unequivocal.

We must begin now to consider the Genocide Treaty in committee, to discuss it on the floor of Congress, to promote discussion and encourage support among the American people.

Next year, 1968, has been designated by the General Assembly of the UN as International Human Rights Year. Twenty years

of effort by the UN in the field of human rights will be commemorated at that time. I strongly urge that the Government of the United States begin to think now about what can be done to make that year a landmark in the recognition of universal human values and the promotion of the rights of men.

I sincerely urge my colleagues in the Senate to ratify the Genocide Treaty.

We need not fear that this treaty will represent an infringement of our national sovereignty—it embodies ideals to which we already subscribe in our Constitution and in our laws. Our ratification of this treaty—and all human rights' treaties—would lend further support to the validity of the ideals which they contain as guiding principles in our modern world.

In conclusion, as an indication of our good faith and dedication to the principles of justice and freedom, we should encourage the Soviet Union to join with us in stating a mutual commitment to the achievement of those ends.

EDWARD W. BROOKE.

HEADSTART FROM THE TEACHER'S PERSPECTIVE

Mr. MONDALE. Mr. President, I have frequently said in the past that the best way to assess the achievements realized by the various Economic Opportunity Act programs is to listen directly to those who have been personally assisted. By its very nature, however, Project Headstart is not amenable to this sort of analysis. Measuring the self-confidence, social adjustment, and educational advance gained by a Headstart youngster may be feasible only after several years have passed. But it is possible and, I think, most interesting to listen for a moment to the reactions of those teachers who make the nationwide Headstart effort the tremendous success it is.

Recently, Mr. Ray Walton, program director for the Lakes and Pines Community Action Council in east-central Minnesota, called to my attention two evaluatory letters he had received from project teachers. These letters are revealing. They warrant the attention and consideration of every Senator and reader of the RECORD with an interest in the success being realized in our efforts to reach the many young Americans who have heretofore approached education and adult life with remediable disadvantages.

I ask unanimous consent that the letters from Mrs. Gretchen Nell and Mr. Oscar Peterson be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

PINE CITY, MINN.,
August 1, 1967.

Mr. RAY WALTON,
Lakes and Pines C.A.C., Inc.,
Braham, Minn.

DEAR MR. WALTON: Even though I have met and talked with you I feel it is necessary to write you about how I feel about Head Start. I am proud to have been chosen as an instructor in the Head Start Program. The opportunity presented a challenge to me which I met with many doubts. Those doubts were quickly disbursed after a few days of working with my 20 children.

Being of German descent and methodical thinking, I feel I must list the tangible and intangible values my children gained from being a part of the Head Start Program.

1. Love and sense of being a person in their own right.
2. Learning to get along with other children.
3. Love.
4. Learning that society demands a certain amount of conformity.
5. Learning to meet a schedule.
6. Love.
7. Learning to achieve and have that achievement acclaimed.
8. Learning that wholesome food, proper eating habits and manners are important to a better future.
9. Love.
10. Learning to behave in a group.

I could go on and list 100 gains which are attained in Head Start. Many people give two arguments against Head Start. One is that we are nothing but baby sitters. This is not true. Life is made up of experiences and my 20 children had numerous, meaningful experiences which they would not have accrued in the presence of a baby sitter.

Another is that we are taking these children out of the home and away from mother too early. Let's face it—we are living in an accelerated, competitive society—the sooner we begin on our preparation to live in that society the better.

After visiting the homes of the children in my group, I am more than confident to state that Head Start gave them immeasurable learning which they otherwise would not have received—Learning to live and Learning to learn.

My only regret is that I could not have been instrumental in convincing some other 60 communities in this area to set up a Head Start Program for their children.

Did a little child smile at you today? If not you missed a chance to enrich your life.

Sincerely,

Mrs. GRETCHEN NELL.

AUGUST 2, 1967.

To: Mr. Ray Walton, Project Director, Lakes and Pines CAC, Inc., Braham, Minn.
From: Oscar Peterson, Teacher Director, Braham Center, Head Start.
Subject: Evaluation.

The Braham Center Head Start program has been a very rewarding experience to the staff of the center. It is our hope that it has been equally rewarding to the participating children and parents.

To the degree that six weeks enables one to accomplish certain goals, we feel that we had a measure of success in the following areas:

1. Rechanneled some asocial behavior into more acceptable activity.
2. Encouraged the children's feelings of themselves.
3. Provided activities in which the children could be successful.
4. Attempted to instill the idea of good social living.
5. Enlarged the children's circle of friends.
6. Provided opportunities for responsibility.
7. Provided many first hand experiences that were new to the children.
8. Had some of the parents actively working in the program.

The lack of more parent participation in the program was a problem. Perhaps the parents are not fully aware of the goals of the program. I think that if the program is to be carried out another year that this should be stressed to the parents and the general public before the programs begin.

In the Braham Center we actually had three levels of attainment in one classroom. Next year I think an effort should be made to separate those who have had school experiences from those who have not.

We took four field trips out of the area this year. Two of them would be of questionable value to the children, but the parent contacts made on these trips were of great value.

I would think that the social and medical information gained this summer would be very valuable to the school. I would hope that these areas be followed up and that this information be made available to the school faculty.

Regardless of the shortcomings encountered this year I think the experiences gained should encourage us for another year. My only regret of the program is that it is now over for this year.

Respectfully,

OSCAR W. PETERSON, Jr.

RIOT PROBING SHOULD BE OPEN

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to insert in the RECORD a column by Mr. Austin V. Wood, entitled "Riot Probing Should Be Open," which appeared in the August 22, 1967, edition of the Martinsburg, W. Va., Journal.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

RIOT PROBING SHOULD BE OPEN

(By Austin V. Wood)

It is well the Senate is to probe racial rioting and has rejected a movement that the probe cover the so-called economic and social aspects through which our politicians, liberals, and social workers endeavor to justify arson, theft and murder. Let the investigation be thorough and open to the public from first to last. It is the only probe which may give us a true picture of the situation. Certainly we may expect little from the Advisory Commission on Racial Disorders appointed by the President in an attempt to head off any other probe which might expose his expressed racial theories to public scrutiny and objective analysis. The very makeup of the Commission proclaims its political inspiration. Let's have a look.

The Chairman is Illinois Governor Otto Kerner. Governor Kerner is a close friend of the President. In fact, the other day he chairmaned a committee which presented Mr. Johnson with a bust of Lincoln. The President, in accepting the gift, compared our present difficulties with the trials and tribulations of President Lincoln. (I make no comment.) Of course, Governor Kerner, in his deliberations, will not be influenced by the fact that the Negro vote in Chicago is second only to the Negro vote in New York.

Vice-Chairman is Mayor John V. Lindsay, of New York. Mayor Lindsay, from the day he was inducted into office, has demonstrated a remarkable agility in dodging issues injurious to the public whether arising from labor disputes or racial disorders.

With the exception of Senator Brooke of Massachusetts, who, although a Negro, is probably the most open-minded member of the Commission, the Senators and Congressmen are little known to the public.

Next comes I. W. Abel, President of the United Steelworker's Union, and Roy Wilkins, Executive Director of the National Association for the Advancement of Colored People, Charles B. Thornton, President of Litton Industries, Inc., one Graham Peden, and oh yes, Herbert Jenkins, police chief of Atlanta.

To make doubly sure, the President appointed as Executive Director of the Commission, one Charles David Ginsburg. Mr. Ginsburg is described by the New York Times as a highly cultured gentleman. After graduating from Harvard Law School, he joined the Securities and Exchange Commission and was Law Secretary to Supreme Court Justice, William O. Douglas. He then became general counsel for the price control agency during the war. He now practices law in Washington. He has served on two other of President Johnson's commissions. You may judge for yourself as to his objectivity. Mr. Ginsburg's

assistant is one Theodore Jones, a Negro who is Director of the Illinois Department of Revenue under Governor Kerner.

I could not care less who compose the Commission or what their findings may be. No doubt their report will impress the American people about as effectively as did the report of the President's Crime Commission, which someone has said contained too many sociologists and not enough policemen. The point is that both Commissions illustrate the unwillingness of the President to face up to his problems. He apparently has an absolute compulsion to play politics with the most vital situations. Thus, typically, he "passed the buck" to Congress in the railroad strike emergency and sent Clark Clifford and General Taylor to the Far East in order that he might have their report to hide behind in escalating the war and continuing the bombing in Vietnam.

If the President were conscientious in his poverty program, aimed almost exclusively at the Negro population we all may applaud his determination even though we did not agree. But his voting record in Congress belies any serious conviction and definitely labels the whole program political. Mr. Johnson's overwhelming solicitude for the poor and the downtrodden began only when the Presidential bee began to buzz. He was elected to Congress in 1937 and from that date on he voted no on every Civil Rights bill which was introduced. He voted no on the anti-lynching bill in 1940; he voted no in a bill forbidding segregation in the armed services, also in 1940; in 1942, 1943 and 1945 he voted no on various anti-poll tax bills; in 1946 he voted no on a bill barring discrimination in the Federal School Lunch Program; in 1949 he supported an anti-Negro amendment in the District of Columbia Home Rule bill. And so on and on. May a man with such fixed convictions so suddenly do such a direct about face? May the Vice Presidency, in itself, so decidedly alter a man's thinking? Again, I have no comment. Each of you must judge for himself.

FEDERAL-STATE-LOCAL RELATIONSHIP

Mr. FANNIN. Mr. President, it should surprise no one that many Americans are concerned about the growing imbalance of power between the Federal Government and State and local governments. Many thoughtful proposals, including a bill to share a portion of Federal revenues with the States, have been introduced in Congress to correct this situation, and most of them have my complete support. There is no question in my mind that Congress must provide State and local governments with the financial wherewithal whereby they can solve their own problems—social, environmental, economic, and educational.

But limited financial resources is only one reason why State and local governments have not done as well as they might have done. Many are shackled by outmoded State constitutions and laws, as Allan Shivers, president of the Chamber of Commerce of the United States, noted last month. Speaking at the 32d annual convention of the National Association of Counties, which met in Chicago, Mr. Shivers warned delegates that the situation must be corrected, lest local government be tolerated "more like a necessary nuisance than a means for better living."

His talk contains some of the most thoughtful comments on the Federal-State-local relationship it has been my privilege to read. Furthermore, he offered many sound suggestions on what can be done to make State and local governments a dynamic force in America.

I recommend his talk to every American. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

LOCAL GOVERNMENT TO GROW BY

(By Allan Shivers, president, Chamber of Commerce of the United States, before the National Association of Counties, Detroit, Mich., July 31, 1967)

I am glad to be with you for a number of reasons. For one thing, your meeting is timely. Urbanization is one of our exciting new trends, and county governments are in the thick of it.

Also, it's good to find myself on somewhat familiar ground in my first full-blown talk as president of the Chamber of Commerce of the United States. My years of public service as a State Senator and Lieutenant Governor and then Governor, gave me an insight into the intimate workings of local government that was as rare as it was rewarding. And since the State of Texas has 254 county governments, all of which kept me constantly reminded of their needs and problems for as long as I held public office, how can I help but feel that I'm on familiar ground here today as we meet to discuss some matters of mutual interest and concern?

These are serious times for all men in public office in America. You would agree, I am sure, that there never has been a time when government in the United States, at the county and every other level, was saddled with greater undertakings, worse frustrations and harsher critics than it has today.

There is much concern about the growth, and the pervasiveness, and the rising cost of a national government, and there is good reason to be concerned.

There are complaints about the weakness of local government, and the antiquity of state government, and these objections, too, are often justified. Our metropolitan areas, especially, are in such a sorry plight that even the Reader's Digest recently raised the question: "Can Local Government Be Saved?"

But I have an answer to that question which may surprise you. Without minimizing what is wrong, it is possible to look very broadly at what is going on and find encouragement. What I see happening today are the first stirrings of a revolutionary new movement—a resurgence of community government!

The signs are visible in many places. You can't have failed to observe some of them in your own counties. Even though nothing much has changed yet a central idea is catching on. It's government modernization. You can catch the fever by visiting any of a hundred or more state or local chamber of commerce offices in various parts of the country. That is where most of the action forces are centered. National Chamber staff specialists have met with government and business leaders in more than 45 states to get the movement rolling. There is a ring of reform in the air; the appearance of an idea whose time has come. Results seem inevitable.

Pausing to see where we are at the moment and to consider how we got this way, we find a confusing state of affairs from which to move ahead.

The whole structure of our society has changed. Lines between rural and urban living are no longer distinct. The cores of our great cities swarm with under-educated, unskilled migrants from mechanized farms. Middle and upper income leadership has gone to the suburbs or to once rural areas. As we have grown in population and industry we have sprawled our homes and factories across the landscape, overrunning one established community after another without connecting them, leaving isolated pockets of jurisdiction to complicate the people's lives.

Overall planning is stymied, as you know so well. There is great waste of money and motion on partial purpose projects.

The federal government, sensing a crisis, has moved in with almost 200 grants-in-aid programs which are budgeted this fiscal year for a total of $17 billion. Washington now provides one-fifth of all state and local funds.

There has been a strong tendency to relax and enjoy this outside help. Federal money is used to cover up conditions that need correcting at the source.

State and local officials are judged more by their success in bringing in federal money than by the way they improve their own governmental machinery. The political roads are strewn with the carcasses of candidates who wanted to reorganize the governmental structure and provide improvements at local expense. When Washington does the financing, the costs are obscured. Local benefits are scrambled in with national needs so that they don't have to be faced up to explicitly by local voters.

How many local projects have you seen that would have been rated economically unjustifiable if they had required a local bond issue, but were found to be quite worthy when a federal subsidy became available?

Some of the federal programs lack validity; some are badly managed, and it is difficult to understand why the less essential ones are not cut back in a time of war and heavy deficit spending like the present.

Nevertheless, I think it is only fair to say that our federal government has made an earnest attempt to respond to the growing needs confronting our states and their local subdivisions—needs that our city halls and state capitals have seemed unduly slow to recognize or act upon.

Nor do I entirely condemn state and local governments for their past slowness of action. There have been understandable reasons for it. The postwar population explosion, the increased mobility of people and goods, and the enormous growth of industry have combined to impose unprecedented demands upon our state and local governments. Most of our state constitutions were drafted to meet the needs of a rural society, when metropolitan centers were few and far between. Moreover, those constitutions were conceived in an atmosphere of caution, marked by fears of the possible consequences of too big, too powerful government—fears justified, in part at least by the colonial experiences of the original states and by the abuses suffered by the Southern states in the Reconstruction years. Unfortunately these documents, which are slow to undergo basic change, have now made it increasingly difficult for the states to adapt themselves as readily as they should to the radically changing conditions confronting them.

Communities, struggling to cope with the problems of congestion, decay and social unrest that the new urban living has produced, are hampered by state restrictions at every turn. Many cities and counties lack adequate power to borrow, annex, consolidate, contract for services, engage in joint operations or transfer functions to each other. Most need state enabling legislation to reform their property tax, the source of seven-eighths of all locally raised tax revenues.

So far during our great upsurges of progress and population we have treated local government more like a necessary nuisance than a means for better living.

Now we come to a new turning point. The drama of the world of tomorrow, based on great strides in science and technology, is being unfolded for us in an urban setting. We are fascinated by planners' and artists' concepts of our Cities of the Future—imaginatively neat, beautiful and convenient places—some of which are already starting to rise in the midst of the present jumble. So the tendency is to push ahead, dragging

our present community problems along to solve as we go, instead of letting them hold us back.

Your organization and mine, along with state and municipal government groups and others, are working together at the national level and also down in the action areas, helping to make the dream of tomorrow come true.

Here is a review of some recent events:

The Governor of Colorado appointed 100 leading citizens to a commission on governmental reform. When its recommendations were not accepted by the legislature, the state chamber teamed up with economic, political and social groups to build public support for modernization.

In Oklahoma, 100 businessmen pledged $70,000, plus manpower, to back up the Governor's Blue Ribbon committee on modernization.

In Pennsylvania, where there are 5,000 separate taxing agencies and government fragmentation is hampering economic growth, the Governor is pushing a modernization program.

The Oregon Legislature, moving carefully but firmly, created a study commission in 1963 and gave it until March 1969 to report. But the commission was empowered to recommend a complete overhaul of local government and to put its recommendations directly onto local or county ballots without referring them back to the Legislature or to the initiative petition route.

And speaking for the federation I represent here today, I would add that in all the states mentioned, state and local chambers of commerce are actively supporting the official studies and improvements, and sometimes, as in the case of Oklahoma, are supplementing them with voluntary research.

In my own state of Texas, the business-supported Texas Research League, in its first report in a three-year local government study requested by Governor John Connally, made seven proposals for state action to upgrade county and municipal government in the State's 23 metropolitan areas. The proposals placed great emphasis on county government as the one best suited to deal with problems of an areawide nature.

As you know, there have been those in times past who have argued that county governments were an anachronism and therefore must eventually disappear. You don't hear that so much any more. To be sure, Connecticut has abolished its counties in favor of another structural arrangement, but we all know that the county government picture in Connecticut was different than what it is elsewhere. I believe that county government today has an historic opportunity to prove its worth as the keystone of a durable nationwide local government structure geared to serve an ever-changing, ever-expanding urban society. But this opportunity will be forfeited if outmoded state constitutions and state laws are allowed to continue their stranglehold on efforts to modernize and strengthen county governmental structures. Probably our rural counties can continue as now constituted for many years to come; but the moment of truth is at hand, it seems to me, for county governments in the nation's growing metropolitan areas. They can—as has been proven in many areas—rise to the occasion and become that keystone I spoke of, or they will, in time, wither away on the political vine.

Federal officials argue that local governments must be more efficient to administer federally financed programs properly, and this gives modernization a boost.

The main thrust though, comes from local business leadership—the traditional, typically American force behind most of our civic spirit. At the National Chamber's recent annual meeting, 66 percent of the delegates taking part in a poll reported that they were personally involved in efforts to modernize local government.

There is an urgency behind the reform which rises from the competition among communities for economic growth—orderly growth being virtually impossible without efficient local government—and here is the basis for much of the businessman's involvement.

Communities have always vied with each other in seeking new and bigger industries. The rule is, the more jobs, the more prosperity. Now, as urban areas struggle with their rising tide of population, the need for more jobs is greater everywhere. And at the same time the nature of the competition has changed. What changes it is the shortage of skilled workers brought about by our advancing technology.

Being able to find a job practically anywhere—and this is especially true of the scientists and engineers required by the new glamour industries—the sought-after employee has become choosy about where he lives. He demands a bright environment in which to work and raise his family, and his choices are being taken into account by corporation heads when they select their new plant locations. The modern, well-run community has a decided edge in this competition.

And so, communities have learned to dress up flirtatiously and pool their charms on an areawide basis, for industrial growth. Upgrading of schools and libraries, new cultural and recreational centers, urban renewal, traffic improvements, pollution control—these are high priority items in area development programs. Communities must exert themselves as never before to stay in the competition, and sooner or later their programs begin to stumble over any local and state government inadequacies.

That's what is happening in hundreds, possibly thousands, of places today. Even if it were in the nature of Americans to tolerate old ways when better ones come along—which it isn't—better government will become a general necessity as soon as the areas which are moving ahead begin to gain bigger advantages over those which lag.

We can be even more hopeful about the outcome by recalling what Emerson said in one of his essays: "Necessity does everything well."

There is also a moral side to governmental reform which stands in favor of the up-and-coming community. It was perhaps best expressed by Edmond Burke when he said: "Government is a contrivance of human wisdom to provide for human wants. Men have a right that these wants should be provided for by this wisdom."

This is the real challenge facing the governments within America, and in fact around the whole world, today. You and I have our parts to do. Let's do them as well as we possibly can.

I thank you.

LEO W. O'BRIEN DAY AT THE ALASKA EXPOSITION

Mr. BARTLETT. Mr. President, in 1958 when the question of statehood for Alaska was pending before Congress, the then chairman of the House Committee on Territories, the Honorable Leo W. O'Brien, of Albany, N.Y., established himself as a friend of all Alaskans. As the man who steered the statehood bill through the House, his dedication to the cause of Alaska never swerved, and until his retirement in 1966, Representative O'Brien served with distinction as a leader in the House.

August 16 was to have been "Leo W. O'Brien Day" at the Alaska 1967 exposition in Fairbanks, a small sort of tribute to a man Alaska owes a lot, and one which I know the people of Fairbanks and the recipient were looking forward to with equal anticipation. On August 16, however, the exposition grounds happened to be under several feet of water, totally wiped out by the disastrous flood.

Representative O'Brien took shelter with his wife, children, and grandchildren at the University of Alaska campus with about 6,000 residents of the city. He describes the situation there in a moving article, published in the Anchorage Daily News, which tells of the patience and unspectacular heroism which Alaskans demonstrated during the entire crisis.

As a most illuminating narrative of what the people in Fairbanks are doing to help themselves and the attitude they have toward the rebuilding of their city, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

IT WAS SOME DAY FOR LEO O'BRIEN

(EDITOR'S NOTE.—The author of this account of the Fairbanks flood disaster is the man who steered the Alaska Statehood Bill through the U.S. House of Representatives in 1958. As floor leader of the statehood bill, his dedication to the cause of Alaska never swerved—and his contribution to the creation of the 49th State is almost beyond measure. A resident of Albany, N.Y., and a newspaperman and columnist since 1922, Leo W. O'Brien served in Congress from 1952 until his retirement in 1966.)

(By Leo W. O'Brien)

Last Wednesday, Aug. 16, was to have been "Leo W. O'Brien Day" at the Alaska '67 Exposition in Fairbanks.

Everyone knows what happened to the "Day," with the Exposition grounds under several feet of water, but there has been a minor mystery about what happened to Leo O'Brien.

The O'Briens, all seven of us, tried our best to keep the engagement, and we did manage to reach the University of Alaska campus at 1:30 a.m., Aug. 15, just as the heavy flood waters were sweeping through the streets of Fairbanks and thousands of people were being evacuated by boat, truck and helicopter to the university and elsewhere.

We spent 48 unforgettable hours at the university, amid tragedy, selflessness and, at one stage, near disaster.

It wasn't much of a hardship for those of us who hadn't lost our homes or who hadn't been assisted from our rooftops.

So many stories already have been told and printed about the personal tragedies of those with whom we dwelt for 48 hours that I'd like to jot down broad impressions.

I can think of no better words to summarize what we saw and heard than the simple comment of my 12-year-old grandson, Tommy. He looked about the lobby of Moore Hall, crowded with old men and young men, old women and young women and babies, some sleeping on the floor, but most, in spite of their own shock, seeking out ways to be helpful to others.

"Gramps," said Tommy, "Alaskans don't panic, do they?"

No, they do not. They didn't panic when a comparative handful of them dared to meet the challenges of statehood eight years ago; they didn't panic when an earthquake seized Anchorage by the throat in 1964 and they didn't panic when floods swept Fairbanks into an economic tailspin.

I came to Alaska 12 years ago with the House Committee on Territories, of which I was chairman, and I decided then to put all my legislative chips, as far as statehood was concerned, not on gold, or oil, or gas or copper, but on the spirit of a people.

My hunch was right. Alaskans are a people who bend but never break.

I had a speech prepared for "Leo W. O'Brien Day," a speech I'll never deliver.

But, after what I saw I have a new speech which I'll deliver many times back home in Albany, N.Y., and as often as they'll listen, to my old friends in Congress.

I'll tell them about the terrible patience of those refugees on the campus, reduced to what they wore on their backs, standing for an hour at a time to receive a small bowl of chili at the college cafeteria.

I'll tell about a people, with most of what they had gone, already talking about tomorrow.

And I'll boast about the staff at the university, inundated overnight by 8,000 tired, hungry people and rising to the occasion without becoming once impatient with the very young or the very old.

And I'll speak with pride of the 300 men and women, some in bare feet, shoveling frantically for hours in the mud and water to save the university powerhouse from flooding.

I'm happy that my son had one of those shovels and proud that my wife steered food and drink toward the trembling lips of bewildered old ladies evacuated from the invalid home in Fairbanks.

We were evacuated to the Fairbanks airport by helicopter late Wednesday. We felt guilty as we left, but there were more important mouths to feed and bodies to lodge than ours.

It's my earnest hope that Congress and the President will provide every assistance possible, without delay or quibbling. If the Lord helps those who help themselves, the government should do no less.

We didn't have our "Day" at Fairbanks, but we had much more. We discovered the true depth of Alaska courage and a people who, in the words of little Tommy, "don't panic."

On Friday next we'll be going home, my wife, my son Robert and his wife, Pat, and the three grandchildren, Terry, Tommy and Timmy. Before leaving, we'll stand by a roadside near Haines and look, for the first time, at Mt. Terrence, named by the people of Alaska for my oldest grandson.

Terry will be proud that "his" mountain is in such a courageous land.

SLUM DWELLERS DIDN'T ALWAYS RIOT

Mr. BYRD of West Virginia. Mr. President, I wish to call attention to a column by John Chamberlain, which appeared in the Wheeling, W. Va., Intelligencer on August 17, 1967. The column was entitled "Self-Help Best Road Out: Slum Dwellers Didn't Always Riot." I ask unanimous consent that the column be inserted in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD as follows:

SELF-HELP BEST ROAD OUT: SLUM DWELLERS DIDN'T ALWAYS RIOT

(By John Chamberlain)

It's hard to think back through the mists of time, which may play tricks with memory. Nevertheless, some one should try to compare the slums—and the slum dwellers—of yesteryear with those of the present, if only to get some perspective on the claim of the extremists that riots and arson are justified today when there was no need for them a generation ago.

One has to go through an old literature to find out how the "other half" lived in the late Nineteenth and early Twentieth centuries. Things weren't good then, as one can discover by reading such reporters-turned-sociologist as Jacob Riis, or by consulting such autobiographies as the one written by the socialist lawyer and political leader, Morris Hillquit. But if the East Side streets in the New York of Hillquit's day were a disgrace, there was hope in hearts and minds. Hillquit's memories of the soaring discussions that took place far above the street level on "the roofs of Cherry Street" differ from what is being done today on the roof tops, where like as not snipers are busy studying the lay of the land in preparation for the next riot.

The difference between past and present is a state of mind. Self-help is out; the cultivation of demonstrations designed to extort something comparable to ransom from Congress is in. We would not be against paying the ransom if we thought it would work. But nobody can make a way of life forever on exacting retribution from a community because of what happened to one's ancestors. Retribution money turns out to be fools' gold; it vanishes and leaves no skills, no muscles, no mother-wit, to carry people on.

Here and there enlightenment is at work in the slums to get off the dead-end give-us-retribution kick. This column has written about the Mangement Council for Merit Employment Training and Research in the Watts area of Los Angeles which has found jobs for thousands. It has said something from time to time about Cleo Blackburn's adventure in the cultivation of "sweat equity" in Indianapolis, where slum dwellers have worked together to rebuild a whole area. And it has had a lot to say about the work of the Negro neurosurgeon Dr. Thomas Matthew of the New York City borough of Queens, who has built a hospital and branched out into a number of endeavors which give employment to slum dwellers who were close to losing hope.

The latest Matthew adventure—and the ingenious doctor seems to come up with a new one every month or two—is about to get under way in the slum area of the South Bronx in New York. There, on Fox Street, Dr. Matthew's Negro-operated Spartacus Construction Company will shortly go to work rehabilitating two six-story walk-up buildings which now have 116 apartments, eighty-eight of which are empty because not even the lowest dregs have wanted them. The buildings have the hopeless look of poverty anywhere, but they are basically sound. Dr. Matthew's Spartacus workers will cut the 116 apartments down to one hundred, and when the conversion work is through there will be room for large families running up to a total of 600 people.

But won't it be just another slum when the reconstruction is a few years in the past? No, says Dr. Matthew. For the Brox adventure is to combine several new features. There will be a family day care center on the premises. There will be a health clinic, a resident social service worker, and a dietary consultant to assist with the planning of meals and the management of food budgets. The backyard of the two apartments will be converted into a playground. And, finally, Dr. Matthew promises a job to every family, either in his construction company, or in his hospital and its several related services.

Dr. Matthew says he can carry off his slum rehabilitation venture because (a) he got the apartments on a miniscule down-payment basis from a discouraged landlord who was tired of losing money and (b) he needs only nine per cent profit on his rents, six-and-a-half per cent for the amortization and the rest for administration. The doctor claims this could be done all over New York City's slum areas if only a few enterprising people would stop waiting for Washington ransom money and get busy on their own.

BREAKTHROUGH IN EFFORTS TO EXPAND AMERICAN PLYWOOD EXPORTS

Mr. MORSE. Mr. President, I am pleased to learn of the announcement by the Department of Agriculture that a cooperator agreement is being concluded between the Foreign Agricultural Service and the American Plywood Association.

The association appeared in May at the Pacific Northwest hearings on export expansion of the Committee on Small Business, at which I was privileged to preside. The testimony of Mr. Bronson J. Lewis, secretary of the association, on that occasion made clear the importance of exports to the softwood-plywood industry. By 1966, the United States was sending 9.5 million square feet to Europe and 37.5 million square feet to Japan. It is now being used for light construction in roof and wall building, sheathing and siding, and in heavy construction for concrete forming, containers, pallets, and other manufactured items.

It is particularly important that this industry is characterized by relatively small businesses, in that the 12 largest producers account for less than one-half of American plywood production. Furthermore, the largest use for these products in the United States is for residential construction. Sixty-five percent of our output goes into homes, apartments, schools, churches, offices and warehouses. Involvement in this kind of service underscores the contribution which the industry of our region and our country can make in serving humanity's basic needs for shelter, for growing commerce, and for a better life for our trading partners overseas.

At the time of the hearings, discussions were in progress between the Department and the association about the possibility of utilizing counterpart funds to further these worthy objectives.

The association has already established and funded an enviable export development program on behalf of all of its members. It has been soundly conceived to extend over 10 years, has oversea offices in Germany and Japan and is so structured that, as the committee was informed, even a two-man operation in Oregon can participate in the growth of these markets. Its operations over the past 4 years earned the President's "E" award for excellence in exporting.

However, this program was imperiled by the conditions in the domestic money market on which I commented to this body in detail on July 25 of last year and February 3 of this year, and brought to the attention of the President and Secretary Weaver during last autumn.

In the words of Mr. Lewis:

(W)e could not anticipate the 1966 tight money crisis, nor the disastrous slump in residential construction it caused. Since housing is plywood's major market, the plywood industry experienced major problems last year, and expects to experience them for some time to come . . . even the most promising long-term programs can fall victim to short-term necessity.

Thus is was agreed in the testimony that the classification of plywood as eligible for a counterpart funds program would be a "major breakthrough" and a "major solution" in building a stable ongoing export expansion in this promising area.

The discussions were long, but the association persevered with its typical initiative. Now an article in the Foreign

Agriculture magazine of August 21 reports that an arrangement is being successfully concluded.

According to Mr. John D. Ritchie, regional vice president of the American Plywood Association here in Washington, D.C., consummation of the cooperators' agreement will allow the APA to broaden its existing efforts in such fields as hiring additional full-time staff abroad, staging exhibits and displays, taking part in historical documentation, advertising, organizing educational seminars, and publishing foreign language technical and promotional literature.

It is my feeling that this agreement represents a notable step forward for our Pacific Northwest regional industries. I would like to congratulate the American Plywood Association, and wish it well in its expanded endeavors. In the meantime, the Small Business Committee will be reviewing the excellent testimony which was presented in Portland, Oreg., and we here in Congress will be doing all that we can to build a firm foundation for growth in plywood markets at home and abroad.

I ask unanimous consent that the article to which I referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FAS CONTRACTS TO HELP PROMOTE U.S. PLYWOOD

FAS's market development program will be broadened in coming months as a result of a recent agreement to help promote U.S. plywood overseas. Partner in this new project is the American Plywood Association, which is the first FAS cooperator to represent American forest products.

With its entry into the program, the Plywood Association brings an impressive record as a promoter of softwood plywood. Organized in 1936, the Association today is one of the largest trade groups in the country, boasting a staff of 315 employees and representing 85–90 percent of the softwood plywood industry. Its product—which brings in about $1.0 billion yearly from sales at home and abroad—is used in light construction for roof decking, wall sheathing, and siding; in heavy construction for concrete forming; and in industry for containers, pallets, and manufactured items.

As an FAS cooperator, the Association will be participating in the big U.S. agricultural show in Japan next spring and other appropriate trade fairs, will be staging exhibits of its own, and will be bringing overseas teams to the United States to study the domestic industry. In addition, funds provided by FAS will allow the Association to increase the scope of already active export programs.

These programs were begun some 4 years ago by the Association in response to a drop in U.S. housing starts and recognition of the tremendous untapped demand overseas. Following an initial market survey, which showed the European Continent ready for U.S. plywood, the Association set up an overseas office in West Germany; from there, representatives reached out to Belgium, the Netherlands, and Denmark. And a special consultant was sent to Japan.

These representatives took plywood products to the specialists—the architects, engineers, contractors—showing them how it should be used and why. The reasoning was that the specialists—once sold on the merits of U.S. plywood—would get the word across to the general public. At the same time, Association representatives were looking into the building codes of different cities to make sure they were not prohibitive to use of U.S. plywood.

As a result of such techniques—which included distribution of foreign language brochures and participation in overseas trade fairs—the Association in 1966 won a Presidential "E" Award for export expansion. By then, sales of U.S. plywood to Europe had zoomed to 9.5 million square feet from 1.2 million in 1962, and those to Japan had jumped to 3.0 million from practically nothing. And this year, with sales to Japan alone forecast at 37.5 million square feet, the Association has an even better start toward a healthy partnership with the Department of Agriculture in market development abroad.

OUTSTANDING ACCOMPLISHMENTS OF ECONOMIC DEVELOPMENT ADMINISTRATION

Mr. STENNIS. Mr. President, Saturday, August 26, will mark the end of the second year since the President approved the Public Works and Economic Development Act of 1965, creating the Economic Development Administration in the Department of Commerce. I strongly supported this legislation because it was based on sound principle. After only 2 years, the Economic Development Administration has proved to be sound in practice and I am proud to have been one of its earliest and warmest supporters. This is the kind of Federal-State-local government programs that I think is proper, sound, and profitable to all when competently managed.

Many communities throughout the country are familiar with the outstanding accomplishments of the EDA in this brief period. Others, however, who have not witnessed its work firsthand, may be unaware of the EDA's remarkable accomplishments in its short existence. The work of the EDA is not spectacular in terms of publicity, but its contributions are many and enduring.

During the past 2 years, in Mississippi alone, the Economic Development Administration has assisted more than 40 towns and communities to acquire new industry or to improve their water and sewage systems so that industries can build and expand there. Loans totaling almost $4 million have been made to Mississippi industries and 33 towns and communities have received assistance for providing better public facilities.

These improvements have meant much to these communities. They have brought new jobs, a higher standard of living, and a better place to live to the people of these areas. Moreover, they have been carried out under community leadership in an excellent spirit of cooperation between Federal and local officials. All in all the Economic Development Administration has been a sound and successful program, worthy of the utmost support. I commend the officials of this agency for their fine record during the past 2 years and wish to encourage them to continue their good work.

PRESIDENT JOHNSON'S VIETNAM POLICY SHOWS ENCOURAGING RESULTS

Mr. BYRD of West Virginia. Mr. President, I commend to my colleagues an excellent article by Roscoe Drummond in the August 23, 1967, Washington Post which effectively refutes the notion that the conflict in Vietnam is stalemated.

Mr. Drummond, one of Washington's most able, thorough, and respected columnist, quotes impressive statistics which make it evident that the allies are making significant progress. North Vietnamese defections have leaped to 40,000 a year, its loss rate to 12,800 men per month, 40 percent of the enemy's bases in the south have been neutralized, and the North Vietnamese economy is badly damaged.

Contrary to what many would have us believe, we are not isolated from all of our allies, as free world troop strength has increased from 500 in 1965 to 54,000 today and "37 countries are providing some degree of aid to South Vietnam and are backing United States policy."

Mr. Drummond's figures vividly point out that despite the fact that 50,000 South Vietnamese men have given their lives in defense of their homeland, the nation continues its fight against aggression with renewed vigor. Drummond says that South Vietnam's troop strength has increased from 274,000 in 1961 to "735,000 and 65,000 are being added this fall," and that "defections are down two-thirds over a year ago and missing-in-action has been reduced by half."

The lesson to be culled from Mr. Drummond's quotations is that our country must unite behind President Johnson in his goal to bring peace to a war-ravaged land fighting for its independence. To turn our backs on the President now because of a belief that the war is a hopeless stalemate is to make a critical mistake of judgment. As Drummond mentions, "significant and encouraging progress is being made."

I ask unanimous consent that Roscoe Drummond's article be inserted in the RECORD.

There being no objection the article was ordered to be printed in the RECORD as follows:

VIETNAM REPORT—STALEMATE TALK REFUTED

(By Roscoe Drummond)

Is everything going badly in Vietnam, are we mired in a hopeless mess?

Or is the fighting of the past two years about to pay off, is Hanoi likely to capitulate soon?

On the basis of the most reliable facts and judgments I can put my hands on the candid answers are:

1—There is absolutely no way to judge how long the war will last, how long it will take to bring the aggression to a halt, and a forecast of ten years can be as wrong as a forecast of ten months.

2—It is untrue that the fighting is stalemated. The war is not at a stalemate; significant and encouraging progress is being made.

Here are statistics which bear most directly on this assessment. They are undoubtedly not precise. But they reflect the real trend.

Q.—Is South Vietnam doing its share? A.—In 1961 the total ground forces of South Vietnam was 274,000. It is now up to 735,000 and 65,000 are being added this fall.

Q.—What of South Vietnamese morale? A.—Defections are down two-thirds over a year ago and missing-in-action has been reduced by half. Two years ago the South Vietnamese were losing three weapons to the enemy for every one captured. Today they are

capturing more than three for every weapon lost.

Q.—Do the South Vietnamese have the staying power to persevere? A.—Since 1960 South Vietnam has lost 50,000 killed in action, 26,200 during the past two years; that's the equivalent of our losing 800,000. They are fighting on.

Q.—Are South Vietnam and the United States fighting alone? A.—In 1965 there were 500 Free World troops in Vietnam. Today there are 54,000. There are 37 countries providing some degree of aid to South Vietnam and are backing United States policy.

Q.—What of enemy reverses? A.—The North Vietnamese and Vietcong have not had a single tactical victory in two years. About 40 per cent of enemy bases in South Vietnam has been neutralized. Enemy defection went up from 10,000 in 1965 to 20,000 in 1966 and is now running at a 40,000 yearly rate. The enemy loss rate in 1966 was 8400 per month and is now running at 12,800 per month.

Q.—What is happening to North Vietnam? A.—Its electric power production is crippled (perhaps as much as 85 per cent), 30 per cent of its rail system knocked out, and much of its railway repair facilities, plus steel and cement factories immobilized. Hanoi has lost half of its Mig jets and in the last ten months 3500 of its trucks and 4000 water craft have been destroyed.

The effect of the bombing is now being openly admitted by the Hanoi press which is exhorting its people to work harder and longer at war production because about 500,000 workers are constantly engaged in repairing bomb damage.

As to the South Vietnamese elections, the Vietcong seem as worried that they will go well as some in the United States seem certain they will go badly.

None of these statistics say when it will be over, but they are evidence that the war is not stalemated. The need is to keep our eye on the goal, not on the clock.

AIR ATTACK CRITICISMS

Mr. SYMINGTON. Mr. President, on August 17 the Kansas City Star published an editorial entitled "For Full Light on Criticism of the Navy Bombing," and on August 22 the St. Louis Globe Democrat published an editorial entitled "Navy in Muddled Waters?"

I have visited with many Navy pilots on their carriers off the coast of Vietnam and have never known a more dedicated group of men.

Inasmuch as these charges have been made, however, I agree with these two newspapers of my State that the matter should be investigated in the public interest, therefore am turning said editorials in question over to the chairman of the Senate Military Preparedness Subcommittee, requesting that he have the matter looked into.

I ask unanimous consent that the two editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Kansas City Star, Aug. 17, 1967]

FOR FULL LIGHT ON CRITICISM OF THE NAVY BOMBING

The charge of wasted, dangerous efforts by Navy fliers against inconsequential targets in the Vietnam war is too serious to be brushed off. It demands fuller explanation than the Navy and the Defense Department have provided so far.

Alex Waier of Midland, Mich., a former pilot on the carrier Ticonderoga, has claimed that he and his squadron mates scuttled their bombs in the seas off North Vietnam on useless missions ordered by commanders who were vying for combat records. If this has occurred, surely other Navy fliers who have returned to civilian life will come forward to substantiate the statement by Waier. Until there is such verifying evidence, care is required in assessing the judgment of one individual. His own experiences may or may not justify the disturbing generalization he has made.

A rear admiral, speaking for the Navy, has denied the allegation. His version is that orders are out banning competition between aircraft carriers involving numbers of sorties flown. We would hope that this is the case. The business of war is much too deadly to permit rivalry, either within a particular service or between services, to take over in any fashion.

The admiral has cited some extenuating circumstances that the Michigan man is not known to have mentioned in his indictment. Commenting on the statement that "about a third of our ordnance was dumped in the water," the Navy representative pointed out that some bombs were dropped in the ocean as a safety procedure.

It is dangerous to make carrier landings with full bombloads aboard at the end of aborted missions. Changing weather conditions—or unexpectedly heavy concentrations of antiaircraft fire—can make it impractical to complete bomb runs as planned.

In raids on North Vietnam alternative targets are not always available. Thus a pilot cannot routinely unload his bombs on another target as was done regularly in World War II. It's not that kind of a war. In this conflict of limited objectives, bombing is tightly controlled. Many pilots complain of frustrations. But this does not necessarily mean that the policy ban on unrestricted bombing is unreasonable.

The American people are also frustrated about the course of the stalemated war in general and, in particular, the questionable effects of bombing North Vietnam. In the light of the public's interest, it would seem that investigation of the former flier's criticism is warranted, and that a fuller disclosure of the facts is in order.

[From the St. Louis Globe Democrat, Aug. 22, 1967]

NAVY IN MUDDLED WATERS?

Just as one cloud does not make a storm, the charge of a single ex-pilot does not make a case against the Navy.

But the allegations of Alex Waier, an A–1 Skyraider pilot aboard the carrier Ticonderoga until his discharge in February, should not be dismissed without a full investigation.

Waier, who is now an assistant analyst at Dow Chemical Co. in Midland, Mich., has charged that lives and planes are being lost on "useless missions" pressed by Navy commanders trying to amass combat records in an intense intra-service rivalry.

If what he says is true—that some Naval officers are so callous as to endanger human life and waste millions of dollars in war materiel in sortie races rigged for false glory—no efforts should be spared in replacing the guilty officers responsible for such an intolerable situation.

If the former Navy airman's charges are unfounded, this also should be determined immediately.

These accusations against a branch of the service are of such a serious nature they should be either fully documented or completely disproved.

These muddled waters are badly in need of clearing up.

FEDERAL CHARTERS FOR MUTUAL SAVINGS BANKS

Mr. PROXMIRE. Mr. President, the House Committee on Banking and Currency has been considering the advisability of providing Federal charters for mutual savings banks. This idea has been pending before the House committee for the last 10 years.

Recently the Senate Housing Subcommittee held extensive hearings on the mortgage credit situation. The committee was searching for ways and means of avoiding the tight money crisis which we experienced in 1966. Tight money had a particularly harmful effect upon the housing and homebuilding industry. Because of the shortage of funds, it was not possible to provide an adequate flow of capital into the homebuilding industry.

During these hearings a number of witnesses recommended that Federal charters be provided for mutual savings banks and that the investment powers of savings and loan associations be broadened, in order to insure a more stable flow of funds to the housing industry. I believe this proposal makes substantial economic sense. It is supported by the administration and by the Council of Economic Advisers. I am hopeful that the House will be able to act upon this measure soon.

Mr. President, in the July–August issue of Challenge, two economists from the National Association of Mutual Savings Banks have written an excellent article on this subject. I ask unanimous consent that it be printed in the RECORD.

There being no objection the article was ordered to be printed in the RECORD, as follows:

FOR SAVINGS BANKS AND SAVINGS AND LOANS—THE CHOICE IS CHANGE, OR ELSE

(By Saul B. Klaman and Donald E. Lawson)

Although things have apparently returned to normal, the year 1966 continues to haunt the managers of the nation's thrift institutions. And little wonder! Savings and loan associations sustained a 57 per cent drop in net saving flows between 1965 and 1966. Their 1966 inflow, the smallest in 14 years, was less than the amount of dividends credited to savings accounts. At mutual savings banks, 1966 net deposit flows were down 29 per cent from 1965, with practically all of the gain reflecting interest dividends.

In marked contrast, consumer saving flows into commercial banks held up quite well last year, falling only about 13 per cent from the high 1965 level. Soaring sales of savings certificates and other consumer-type time deposits substantially offset reduced gains in regular passbook savings. Indeed, were it not for the regulatory rollback of consumer CD rates in September, commercial bank saving flows would undoubtedly have been higher.

All three major deposit-type institutions were, of course, locked in competitive battle with high-flying capital market instruments. As open-market interest rates soared to 40-year highs and over—under the impact of heavy credit demands, severe monetary restraint and deteriorating investor expectations—consumers channeled a record $11 billion into all type of securities, more than four times the 1965 volume. Consumers directly supplied almost one-sixth of the nation's total credit demands in 1966, the highest share since 1957, compared with less than four per cent in 1965. Conversely, as total savings account flows dropped from $26 billion to $19 billion between 1965 and 1966, deposit-type financial intermediaries were able to supply only one-third of 1966 credit flows, compared with more than one-half in each of the preceding six years.

For savings institutions—savings banks and savings and loans—the 1966 lesson is painfully clear; they are under a severe competi-

tive disadvantage vis-à-vis commercial banks and open-market instruments in periods of high and rising interest rates. This is not an entirely new lesson for savings banks. They learned it in part in 1959, the year of the "magic 5's," when the Treasury competed with five per cent "short-term" notes of less than five years' maturity. But in that year, the impact of credit stringency on the savings bank industry was not as pervasive, nor as long-lasting, as in 1966. In the intervening years of financial ease, moreover, the major problem was to find quality investment outlets for an unprecedented volume of saving.

For savings and loan associations particularly, 1966 was, in fact, an altogether new and frightening experience. Unlike savings banks, they came through the 1959 financial squeeze unscathed, attracting a then record flow of new saving. But as the years passed and commercial bank competition for savings intensified, their traditional interest rate advantage over other intermediaries diminished, and in some areas disappeared entirely. When the 1966 credit crisis hit, savings and loans suddenly found themselves in a new financial ball game, unable to raise earnings sufficiently to compete effectively in the battle for savings.

In the wake of this experience, how can the specialized thrift institutions compete in the new, dynamic environment of financial and savings markets? This question has long-run relevance whether or not one assumes the 1966 situation to have been especially unique. For the 1966 experience not only reflected severe financial stringency, but also the emergence during the preceding decade of commercial banks as vigorous and important competitors for individuals' savings. This trend is sure to continue and, indeed, to intensify.

Moreover, while we may not soon again confront such a dramatic brand of financial squeeze as in 1966, the return of tight money and rapidly rising interest rates can hardly be ruled out. Indeed, long-term interest rates in securities markets, after falling sharply early in 1967, rose steadily during April and May to levels not too far below the highs reached in 1966, although short-term rates continued to decline and monetary policy remained expansionary. There is, in fact, a widely held view that the years ahead will generally be characterized by capital shortages and high interest rates, as overall economic activity is maintained at relatively high levels and worldwide credit demands press hard against limited saving flows.

Thus, even as savings are once again piling up at tellers' windows in savings banks and savings and loan associations, realistic long-range planning must allow for the return of financial stringency, the continuation of rapid and unpredictable financial change, and the intensification of severe competition for savings from "one-stop" commercial banks.

Some financial observers have already concluded that specialized savings institutions will not long be able to compete under these circumstances. In their view, specialized savings banks and savings and loans are the inevitably fated victims of a sort of financial Darwinism, already marked for extinction as their basic role in economic life becomes increasingly ill-suited to the rapidly changing environment in which they must function.

This pessimistic appraisal fails to recognize the true economic role of savings institutions. Savings banks and savings and loans have always been *consumer* financial specialists. The former, organized originally to promote thrift, and the latter to promote home ownership, can continue their traditional consumer orientation and useful economic role by evolving from their narrow functional specialization of the past to a broader specialization based on meeting *all* of the changing financial needs of consumers and families in a dynamic society. This would hardly be a revolutionary departure from basic purpose, but rather a natural response to a changing environment.

What is needed here is more than a broadening of lending and investment powers. For savings institutions must also meet head on the problems arising from their promise to depositors of "instant liquidity" from a basically ill-liquid asset structure. The need exists, therefore, for some restructuring of the liabilities side as well as the assets side of the balance sheet.

In particular savings institutions must reduce their reliance on the standard passbook savings account to attract funds. They need to supplement these accounts with a variety of higher yielding saving plans which will (1) limit depositor liquidity; (2) space out depositor claims; and (3) offer higher rates only for *new* savings. Such plans will result in greater flexibility, better control over withdrawals, reduced pressures on earnings and increased ability to attract savings.

There is no secret about the nature of these plans. Several have been developed in recent years and are already in use, but on a too limited basis. Savings institutions must greatly expand the use, and innovate in the development, of such supplementary saving plans as: (1) investment-type savings accounts, including savings certificates; (2) limited withdrawal accounts, requiring 60 or 90 days or more notice; (3) split-rate plans with higher rates for long-term accounts; (4) systematic savings plans, with bonuses for regular saving over a period of years; and (5) annuity-type plans pointing toward regular payouts in retirement years.

In addition, the individual institution must determine the savings market it wishes to cultivate—the more stable market of small, local savers, or the more volatile national arena of large, interest-sensitive savers. The 1966 experience clearly demonstrated that savings markets are segmented and that interest rate sensitivity is limited mainly to the large, sophisticated savers. Tellers were not flooded with an unusually large number of withdrawal slips in 1966. Rather, each slip had an unusually large average dollar sign on it. Thus, even as dollar withdrawals were exceptionally heavy, a near-record volume of new accounts was attracted by both savings banks and savings and loan associations in 1966. The savings institution that cultivates large accounts must expect a volatile deposit experience, and its liquidity and loan and investment pattern must be geared accordingly.

But regardless of the nature of their savings account business, broadened and more flexible lending and investment powers will be essential if savings institutions are to modernize their role and functions. Realization of a broadened and more flexible asset structure would provide significant advantages not only for the thrift industry, but also for the national economy. The advantages may be briefly summarized.

For savings institutions:

Long-run earning power would be strengthened because funds could be channeled more flexibly among alternative outlets in accordance with changes in demand and fundamental investment criteria of yield, safety and liquidity.

Short-run competitive ability would be improved because increased holdings of short-term assets would permit a quicker adjustment of earnings in periods of rapid interest rate advances.

Investment risks and liquidity strains would be lessened by a better balanced portfolio because saving flows and mortgage repayments in excess of sound mortgage outlets could be channeled into alternative outlets, reinforcing the results of better control over deposit liability mentioned above.

Ability to promote thrift continuously would be strengthened by increased long-run earning power, strengthened short-run competitive ability, and the attractiveness to savers of a wider range of modern family financial services.

For the economy as a whole:

There would be a more stable and adequate flow of mortgage credit over the entire business cycle because excessive expansion would be avoided in periods of relatively low housing demand or rapid savings growth, while, in periods of relatively slack savings growth or rising mortgage demand, short-term loans or other assets in portfolio could be converted into mortgage loans.

There would be a better allocation of economic and financial resources, as saving flows were meshed more evenly with credit demands through a more flexible and fluid system of financial intermediation.

Individuals and families would have a wider range of choice among financial services, which is not only desirable in itself but often leads to increased savings and accelerated economic growth in local areas.

The need for continuous protective federal interest rate regulation would be reduced because savings institutions would be better able to adjust to rapid financial change in competition with open-market instruments and commercial banks.

It is in growing recognition of these advantages that both the leadership of the thrift industry and many public interest groups have, over the years, come out strongly in support of broadened financial powers for savings institutions so that they can better serve the needs of individuals and families.

The mutual savings bank industry has been on record in this regard for some time. For example, in his 1962 Annual Report, Dr. Grover W. Ensley, the Executive Vice President of the National Association of Mutual Savings Banks, pointed out that "In the long run, continuation of an intensively competitive savings era calls for the development of a new broad-based thrift industry . . . (having) wider and more flexible savings facilities and investment powers than either the mutual savings bank or savings and loan industries have today." He called for a ". . . full range of financial services to the individual . . ." that can ". . . respond readily to changes in individuals' financial needs and shifts in capital market demands." And this position has been repeatedly endorsed by the industry.

More recently, as commercial banks have steadily invaded the savings area, the savings and loan business has also moved in this direction. The *Preliminary Report on the Needs of Savings and Loan Business,* prepared in 1966 by a "blue ribbon" committee of the United States Savings and Loan League, concluded that "With the emphasis on the family and the community that our home finance tradition has developed, our base may logically be broadened to that of a 'people-oriented' business which will provide full service for all the 'family and home' credit needs of savings and mortgage customers in contrast to commercial banking serving business.

"Nor is this view limited to the thrift industry. Both the privately sponsored Commission on Money and Credit and President Kennedy's Committee on Financial Institutions recommended broadened loan and investment powers for savings institutions. Most recently, the Council of Economic Advisers, in its 1967 Annual Report, endorsed broadened powers through federally chartered savings banks on the specific grounds that such action ". . . would improve the efficiency of thrift institutions, strengthen them in competition with banks, and thereby ultimately benefit the mortgage market."

While savings banks have considerably broader powers than savings and loans, which are limited essentially to home mortgage loans, they too are quite limited in several areas, particularly in comparison with commercial banks. Thus, many savings banks are still denied the right to make consumer

loans, while consumer loan powers available to savings banks in some states are clearly inadequate.

Other services should include provision of a modern, flexible, money transfer facility, the extension of savings bank life insurance to other states besides New York, Massachusetts and Connecticut, and, perhaps, a mutual fund for depositors. Together with traditional mortgage loan powers, broadened savings account services, and full-scale family financial counseling, these would form the basic ingredients of a comprehensive consumer financial service center. In short, what is needed is the development of a full service family banking system to supplement and complement the commercial banking system.

This is not to say that there will not continue to be some overlap between "family banks" and "business banks"; this is a healthy competitive arrangement from which the public will benefit. But the main thrust and orientation of each system will be basically different—the one consumer-oriented, the other basically business-oriented. Again, this new alignment does not deny a place in our financial system for those savings institutions which wish to remain specialized along traditional, functional lines. These will differ clearly, however, from the new full-purpose family banking institutions.

To achieve a synthesis of the best aspects of the savings bank and savings and loan systems into one strengthened mutual family banking system will require the enactment of legislation. Such proposals already exist in the Federal Savings Bank bill, sponsored by the Administration, and in a new federal charter measure, sponsored by the United States Savings and Loan League. The Federal Savings Bank bill has already been twice endorsed by President Johnson, and by his Council of Economic Advisers. Federal savings bank charters have won the endorsement, as well, of the Commission on Money and Credit, President Kennedy's Committee on Financial Institutions, academic study groups and many private industry groups, including the National Association of Home Builders, The National Association of Real Estate Boards, the Mortgage Bankers Association of America, the Cooperative League of the U.S.A., the Council of Mutual Savings institutions and the National Association of Mutual Savings Banks.

The differences between the Administration's Federal Savings Bank bill and the U.S. Savings and Loan League's new federal charter proposal—not yet before the Congress—are not great. Both provide for a broader range of financial services to individuals and families that would strengthen the competitive ability of thrift institutions converting into the new broadened federal charter. Differences center mainly on nomenclature, fiduciary powers and rights of conversion. Among reasonable men, these differences would appear to be resolvable.

The stakes are so high for both industries—and for the public as well—that their resolution ought to be assigned a high priority in the affairs of each. Savings bank and savings and loan leadership might well sit down together under the auspices of mutually respected federal officials or private citizens to agree on a broadly acceptable proposal for unification.

Success in such a venture would, indeed, brighten the future for specialized savings institutions. It would set the stage for evolution into a full family banking system specializing in a comprehensive package of consumer-oriented thrift—lending, investment, insurance, counseling and money-transfer services—an evolution that will secure a strong and expanding place for savings institutions in a rapidly changing financial structure.

The future for savings institutions in our economy, then, *can* be exciting—but only if they are willing to adapt creatively to change. Without fundamental structural change, they will continue to face tough sledding whenever financial stringency hits. As Governor Brimmer of the Federal Reserve put it recently " . . . the 1966 experience stands as a haunting reminder that under existing institutional arrangements, S&L's (and, to a lesser extent, savings banks) do not have the capability to compete freely for savings with commercial banks and market instruments when interest rates rise sharply." Moreover, without basic structural change, savings institutions will become increasingly vulnerable to long-run developments, as commercial banks intensify their competition for savings and introduce electronic "no-stop" banking in the years ahead.

Both savings banks and savings and loans agree that existing institutional arrangements require change. And change effected through the unification of savings banks and savings and loans seems a logical evolutionary development in the dynamic financial process. It is a reasonable expectation that the resulting family banking system will have all of the vigor and growth characteristic of the hybrid, and that the process of financial Darwinism, therefore, will lead not to the disappearance of the savings institution species, but to its evolution to a higher stage.

SPEECH BY SENATOR ROBERT C. BYRD BEFORE THE WASHINGTON, D.C., ROTARY CLUB, AUGUST 16, 1967

Mr. BYRD of West Virginia. Mr. President, I was recently invited, by Mr. Stephen F. Dunn, president, National Coal Association, to address the Washington, D.C., Rotary Club at the Hotel Washington on August 16, 1967.

I ask unanimous consent that the remarks which I had prepared for that occasion be inserted in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD as follows:

SPEECH BY SENATOR ROBERT C. BYRD, WASHINGTON ROTARY CLUB, HOTEL WASHINGTON, WASHINGTON, D.C., AUGUST 16, 1967

Edwin Markham, in his poem, "The Fear for Thee, My Country," apparently bespoke his fears for the future of the Republic. Today, we see things happening which future historians may very well mark as having been the early symptoms of the decline of this Republic. Many Americans, including myself, view these phenomena with increasing concern.

For example, the Nation, over the past few years, has experienced a virtual epidemic of crime. The Uniform Crime Reports just published last week by the FBI indicated that over 3¼ million crimes were reported last year. Of course, there is no way of knowing exactly how many crimes were actually committed inasmuch as many crimes are never reported.

This represented an 11-percent increase over the previous year.

There was an increase, over the previous year of 14 percent in the number of robberies.

Auto thefts increased 13 percent.

Larcenies increased 13 percent.

Murders increased 11 percent.

There was an increase in forcible rapes amounting to 10 percent. (You may be interested to know that since 1960 the number of rapes has increased 50 percent.)

Burglaries increase 10 percent.

Aggravated assaults increased 9 percent.

While the population was increasing 1.1 percent, the number of crimes committed was increasing 10 times as fast.

The timetable of crime for 1966 was as follows:

A serious crime was committed every 10 seconds, as compared with a serious crime every 12 seconds the year before;

a murder was committed every 48 minutes, as compared with a murder every 53 minutes the year before;

a forcible rape was committed every 21 minutes, as compared with a forcible rape every 23 minutes the year before;

a burglary was committed every 23 seconds, as compared with a burglary every 27 seconds the year before;

a robbery was committed every 3½ minutes, as compared with a robbery every 4½ minutes the year before;

an aggravated assault was committed every 2 minutes, as compared with an aggravated assault every 2½ minutes the year before;

an auto theft was committed every 57 seconds, as compared with an auto theft every 60 seconds the year before; and

a larceny of $50 or over was committed every 35 seconds.

To be more specific, there were 153,400 robberies committed last year; there were 1,370,000 burglaries committed; there were 2,790,000 larcenies committed; there were 557,000 auto thefts committed; there were 10,920 murders committed; and there were 25,330 forcible rapes committed last year.

Crimes against property accounted for losses amounting to $1.2 billion, although recoveries by the police reduced this by 55 percent.

Your chances, as a national citizen, of becoming the victim of crime have increased 48 percent over what your chancs were in 1960.

Here in your own National Capital, crime is increasing at a faster rate than it is nationwide. The District of Columbia, which was in 12th place among 16 cities of comparable size in 1957, has, as a result of its soaring crime rate, been catapulted into 2nd place. I predict that the day is not far off when the Nation's Capital will stand in first place unless the trend is reversed.

Last year, 57 policemen were murdered while acting in the performance of duty, making a total of 335 policemen who have died in the line of duty since 1960.

It is interesting to note that 76 percent of those persons who were involved in the murder of these policemen had been previously charged with the commission of a serious crime, and over one-half of these had committed the assaultive-type crimes, such as murder, forcible rape, assault with intent to kill, assault with a deadly weapon, etc.

Among the 442 persons involved in the killings, 67 percent had prior convictions on criminal charges, and 69 percent of this group had received leniency in the form of probation or parole on at least one of these prior convictions.

As a matter of fact, 11 of the police murderers had previously been charged with an offense of murder, and 9 of these 11 murderers had been paroled on the murder charge.

Two of the 11 were escapees, one of whom had fled confinement while serving a murder sentence, and the other of whom had escaped from prison while awaiting trial for murder. Three of every 10 of the murderers were on parole or probation when they murdered a police officer.

Incidentally, more law enforcement officers were murdered on Friday than on any other day of the week, while fewer officers lost their lives on Tuesday.

Police clearances, by the way, dropped from 26.3 percent in 1965 to 24.3 percent in 1966.

Another disturbing phenomenon in recent years has been the steadily increasing trend toward more and more welfare expenditures. In the conventional categories alone, such as aid-to-dependent-children, general public assistance, aid-to-the-permanently-and-totally-disabled, etc., the price tag annually, is now up to something like $8 billion.

This staggering expense can be more readily comprehended if one will but remember that only 1 billion minutes have passed since Jesus Christ was born, and that, consequently, our welfare costs in the conventional programs alone amount annually to an expenditure of $8 for every minute since Jesus of Nazareth admonished us that the poor will always be with us.

I am for welfare programs as long as they are properly and efficiently administered, and as long as they do not encourage dependency and are geared to the assistance of these persons who are in real need of assistance.

No one could more ardently support the giving of assistance to the physically and mentally incapacitated, those who are too old and those who are too young to help themselves, than do I.

But it is shocking to study the trend of growing welfare dependency in this country. There are those who now advocate welfare payments as a matter of legal right. There are those who are inciting welfare recipients to take direct action leading toward higher welfare payments. There are those who would organize welfare recipients into unions and who would swell the ranks of demonstrators with welfare recipients.

It is also disconcerting to note the forces which stand in the way of adequate and effective policing of the welfare programs so as to rid them of ineligibles. (Results of D.C. investigations.)

Another malignant and corruptive factor which is already having a disturbing and destructive impact upon our society today is the spiraling rate of illegitimacy. This is a factor which, sooner or later, and whether we like it or not, we are going to have to candidly face up to.

This Nation simply cannot afford to continue to close its eyes to the burgeoning birthrate among low-income families in America, and the Nation cannot eschew the poisonous element of illegitimacy which is becoming alarmingly prevalent.

Another symptom of societal decline in this country, and one which is closely interrelated with the general subject of crime, has been the emerging riots which have swept over scores of major American cities during the last two years.

These riots—a natural outgrowth of the rash of demonstrations and acts of so-called disobedience which have captured the headlines during the past five years—have left destruction and death in their wake. Estimates of damage in the city of Detroit alone have reached the billion dollar mark.

Hundreds of business establishments were gutted by fires, while the firemen were attacked with bricks and bottles as they attempted to extinguish the fires set by arsonists.

Automobiles were overturned and burned, while their occupants were set upon and beaten by savage mobs.

Policemen in city after city were unable to cope with those who looted, assaulted, and destroyed.

A decade ago, one would not have believed that the National Guard and Federal troops would be necessary to subdue the raging mobs in America's cities.

Another ill omen can be seen in the decline of a strong spiritual awareness which marked the early history of this Republic. We are living in an era of permissiveness and increasing materialism. Religion seems to be becoming more and more a matter of form rather than a sincere dedication to a belief in the Creator and a respect for God's immutable laws.

A small minority of clergymen advocate the thesis that God is dead, and there is, increasingly, an indication that this philosophy permeates more and more of the whole of our society.

This is not only disconcerting; it is also alarming, because a belief in God constitutes the basis of every moral code.

More and more, the Nation seems to be getting away from the fundamental, basic, principles upon which it was founded:

Belief in God;
a strong patriotism;
respect for law and order;
a willingness to work for one's daily bread;
a rugged individualism.

How will we grapple with the disturbing phenomena of spiraling crime, growing welfare caseloads, destructive riots, and the enervating permissiveness and spiritual decay that threaten to destroy the very foundations of the Republic?

First of all, permit me to say that, I have worked for years to improve the lot of the poor and to better their condition. I have supported most housing programs, most of the social welfare and economic programs designed to help people, and I want to see all of our people enjoy a better life if they will work for it and if they will shoulder the responsibilities that are a part of living in a free society.

But I also believe that people have to do a few things for themselves. The Government cannot do everything for them.

And pouring more and more money into more and more programs is not going to stop people from rioting, because those who are doing the rioting are not the solid Negro citizens. It is the criminal element—the hoodlums, the hooligans, the anti-social misfits, and the unstable.

There is no easy or simple or single solution to the street violence and the riots. But we must try to find the answers. And there are some things which imperatively demand attention and action.

For example, and first of all, we all most insist upon the proper respect for the laws of the land and we must take a firm stand for the maintenance of good order. Alexander Pope said, "Order is Heaven's first law." I believe that the maintenance of order is one of the first duties of government, and I also believe that one of the first duties of every law-abiding citizen in this country is to support the police who must enforce the laws and maintain order.

If the police of this Nation are not supported now, the law will perish and this Republic cannot endure long thereafter.

Moreover, every effort must be put forth to stamp out illiteracy, and the emphasis, for every individual, should be upon education. Education for the sake of education, rather than integration for integration's sake—this is the important thing.

Education will light the paths to mutual respect, cooperation, and better understanding.

Education is the cornerstone for amicable race relations.

Booker T. Washington, one of the greatest of American Negroes, lived as a boy in Malden, West Virginia, where he toiled in the salt works and in the mines. In later years, when he had become a great educator, he made a statement, the wisdom of which can benefit not only the Negro boy or girl, but also the white youth who is desirous of making a success in life:

"When a Negro girl learns to cook, to wash dishes, to sew, to write a book, or a Negro boy learns to groom horses, or to grow sweet potatoes, or to produce butter, or to build a house, or to be able to practice medicine, as well or better than someone else, they will be rewarded regardless of race or color."

Also, family planning *is* imperative, and civil rights organizations should make intensive efforts to promote such.

The high birth rate among low-income Negro families simply cannot be overlooked.

For, whatever importance may be assigned to unemployment as a factor in riots and other developments which have racial overtones, the fact is that, in this age of automation, cybernation, and advancing technology, the problem of unemployment will always be with us.

No amount of Government largess and costly poverty programs will constitute a panacea therefor as long as the birth rate is permitted to soar, unchecked and uncontrolled, among those families least prepared and least able to provide for large numbers of children who, in later years, will be unprepared candidates for jobs which no longer exist.

Additionally, the problem of illegitimacy, which I have mentioned, must be dealt with. Illegitimacy is, more and more, becoming a frightening factor in this whole equation.

How the Nation can continue to close its eyes to this disturbing fact is beyond comprehension.

Something will have to be done about it, or the burden of crime, riots, and the dole will ultimately become unbearable.

Militant civil rights groups should stop blaming the white power structure for all of the ills that are visited upon the Negro community.

Negroes must themselves take the lead in doing something constructive for themselves; and they can do this by waging war upon the evils of illegitimacy as one important beginning.

The Negro's lot can be infinitely better in the future if something is done now to encourage and promote planned parenthood and parental responsibility.

This is not to say that illegitimacy is nonexistent among the white population, but the statistics show clearly where the problem is greatest, and it should there be attacked most intensely.

No amount of Government paternalism can take the place of drive and ambition when it comes to developing the substantial and upright citizen.

Hard work, perseverance, and self-accomplishment breed independence and strength, courage and resourcefulness in the man or woman.

Somehow the glory of honest toil must be restored if this Nation is going to survive the domestic dangers that confront it.

Easy money, easy living, laziness, shiftlessness—all these go hand in hand with irresponsibility, a disordered society, and ultimate decay.

There is no question but that the Central Government has a responsibility to assist, a responsibility to provide certain services, but if that Government is to endure, the people must not be encouraged more and more to depend upon the Government for the supplying of every want and every need.

A nation on the dole can never hope to maintain the moral fiber, the spiritual strength, and the rugged resourcefulness to keep her people free.

LAWYERS CALL FOR U.N. JURISDICTION OVER SEA RESOURCES

Mr. CHURCH. Mr. President, on July 31, 1967, more than 2,500 lawyers and jurists representing more than 100 countries at the World Peace Through Law Conference in Geneva adopted a resolution recommending that the United Nations proclaim its jurisdiction and control over the resources of the high seas.

I am pleased that this distinguished group of jurists have endorsed the concept of United Nations jurisdiction over the resources of the deep ocean. In my report to the Committee on Foreign Relations, following my service as a delegate to the United Nations, I said:

The greatest untapped reservoir of the world's wealth lies, beyond national jurisdiction and under title to no nation, at the bottom of the seas. Mineral riches on the ocean floor may seem of little economic value today. But a generation from now the world's population will have doubled, greatly multiplying the demands on present known

deposits of mineral resources. History is replete with incidents of waters bloodied by conflict over the ocean's bounty. Sovereign rights over coastal waters have been a constant source of international controversy. As the population vise tightens, national rivalries for the exploitation of the deep ocean's resources could easily become a new threat to peace.

By conferring title on the United Nations to mineral resources on the ocean floor beyond the Continental Shelf, under an international agreement regulating their development, we might not only remove a coming cause of international friction, but also endow the United Nations with a source for substantial revenue in the future. It should be remembered that the Federal Government of the United States financed much of its operation, for more than a century, through the sale and management of its public lands.

I hope that the United Nations will begin exploration of this subject at the next meeting of the General Assembly. I ask unanimous consent to have printed in the RECORD the text of the 1967 report of the United Nations Charter Committee of the World Peace Through Law Center and the text of the resolution on Resources of the High Seas adopted by the Conference.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTION 15—RESOURCES OF THE HIGH SEAS

(Adopted July 13, 1967, by Geneva World Peace Through Law Conference)

Whereas, new technology and oceanography have revealed the possibility of exploitation of untold resources of the high seas and the bed thereof beyond the continental shelf and more than half of mankind finds itself underprivileged, underfed, and underdeveloped, and the high seas are the common heritage of all mankin.

Resolved, that the World Peace Through Law Center

(1) Recommend to the General Assembly of the United Nations the issuance of a proclamation declaring that the non-fishery resources of the high seas, outside the territorial waters of any State, and the bed of the sea beyond the continental shelf, appertain to the United Nations and are subject to its jurisdiction and control.

(2) Refer to its Committee on Fisheries Law the question of conservation and regulation of the international fishery resources of the high seas.

1967 REPORT—UNITED NATIONS CHARTER COMMITTEE, WORLD PEACE THROUGH LAW CENTER

PART I

It is the feeling of the Committee that the United Nations Charter is essentially a document which will either grow or atrophy depending upon the creativity or apathy of the members of the organization. Since it is the embryo of a law above the law of each of the members, the Committee urges each of the members to use the greatest ingenuity in establishing the instrument as a powerful document and calls particular attention to the impediment of veto which acts as a brake upon substantial advances in moving the document forward into as yet uncharted fields. The Committee, however, must be realistic and face the fact that any amendments which would theoretically strengthen the organization are not viable at the present time because of the inability to obtain unanimity among the permanent members whose consent is required to any such amendment. It is for this reason that the Committee at the present time does not recommend any specific amendments to the Charter.

PART II

On the other hand, it is the opinion of the Committee that certain action can be taken at this time which will, if not in the immediate future, certainly in the long term, make the United Nations self-supporting and not dependent upon its members for contributions. An attribute of the suggested course of action is that the consent of the permanent members is not required for its accomplishment.

The Committee recommends that the United Nations issue a proclamation similar in structure and legal form to the Truman Proclamation of 1945 declaring that the United Nations regards the resources of the high seas as "appertaining to" the United Nations "and subject to its jurisdiction and control."

The riches of the seabed are apparently almost limitless.

The sea apparently acts as a great chemical retort which separates and concentrates the various elements, washed down by the continental rivers into extraordinarily high grade ore. This ore is found in the form of nodules which are deposited on the floor of the sea. Not only are these nodules deemed to be exploitable, but it has been estimated that they exist in sufficient amounts to supply the world with many minerals for thousands of years at the present rate of consumption. In his testimony before the House Subcommittee on Oceanography, John L. Mero, president of Ocean Resources, Inc., stated that:

" 'While it is a well-known fact that the sea can serve as a source of all mankind's protein requirements, it is a much less known fact that the sea can also provide the earth's population with its total consumption of many industrially important mineral commodities. What is even more remarkable is the observation that the sea can provide these mineral commodities at a cost of human labor and resources that is a fraction of that required to win these materials from land sources.' [1]

"Testimony before the U.S. Senate Committee on Commerce, in 1965, disclosed that the nodules containing these metals occur at depths between 3,000 to 17,000 feet. Deep-ocean photography reveals that five to ten pounds of these nodules per square foot lie in many areas of the oceans." [2]

(The foregoing quotation is from an article which appeared on January 23, 24 and 25, 1967, in the New York Law Journal which was adapted from a thesis presented to the Judge Advocate General's School, U.S. Army, Charlottesville, Virginia, while the author was a member of the 14th Career Course. It is entitled "Acquisition of Resources of Bottom of the Sea: A New Frontier of International Law" by Lt. Commander Richard J. Grunawalt. The Grunawalt thesis was also published in the October issue of the Military Law Review (Vol. 34).)

It is to be noted with interest that the Truman Proclamation invoked no recognized sources of international law in support of the Proclamation, but as Lt. Cmdr. Grunawalt states in his article referred to above:

The invocation of such sources would have been not only unnecessary, but would have been unwise as well, since the proclamation purports to fill a vacuum in the law rather than to displace existing doctrine. *The proclamation constituted a new and fresh approach to an area of great importance for which the established principles of international law held no clear solution.* (Emphasis added.)

The Truman Proclamation sought only to appropriate to the United States control over its own continental shelf. It was followed, however, by a plethora of proclamations by various countries who sought to appropriate for themselves equivalent benefits from continental shelves contiguous to their own territory. This, in turn, because of the inconsistency in the nature of the claims made, led to the 1958 Convention of the Continental Shelf, which in turn was a product of the work of the International Law Commission of the United Nations and the Geneva Conference on the Law of the Sea.

The Convention defines the continental shelf as follows:

(Article 1): "For the purpose of these Articles, the term 'continental shelf' is used as referring a) to the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas; b) to the seabed and subsoil of similar submarine areas adjacent to the coasts of islands."

The difficulty with the definition lies in the fact that it may be interpreted to be open-ended in that it permits assertion of authority over an area to the extent that the same is capable of commercial exploitation. For instance, one authority has stated: "Every coastal State would seem entitled to assert rights off its shore out to the maximum depths for exploitation reached anywhere in the world, regardless of its own capabilities or of local conditions, other than depth which might prevent exploitation. . . . It is not difficult to envisage the confusion and controversy which must arise in the course of ascertaining, verifying and publishing the latest data on such a maximum depth." (Young, The Geneva Convention on the Continental Shelf: A First Impression, 52 Am. J. Intl. L. 7333, 735 (1958).)

At the time the Convention was adopted the possibility of exploiting the shelf at a depth in excess of 200 meters was considered to be extremely remote at best. (Grunawalt, op cit.) But new developments would indicate that scientific exploitation of petroleum is currently possible at depths below 4,000 meters (Garrett, Issues in International Law Created by Scientific Development of the Ocean Floor, 19 Sw. L. J. 97 (1965)).

In early March 1967 the United States announced a vast new program for exploration of the world's seabeds.

Accordingly, there is a present and urgent need to act before submarine colonialism leads to a race among the nations of the world to appropriate the seabed, which in turn may lead to conflict with other States that are deprived of what they deemed to be their fair share. There is, of course, an inherent danger that any portion of the seabed appropriated by a particular nation will be used predominantly for its own purposes and not for the benefit of mankind.

Accordingly, your Committee recommends that the General Assembly adopt the proclamation above described.

It should be noted that it has heretofore been adjudicated that the United Nations is a legal entity with a right to sue and be sued and to hold property rights.

Therefore, this Committee recommends

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[1] Statement of John L. Mero, 18 August 1965, Hearings Before the Subcommittee on Oceanography of the House Committee on Merchant Marine and Fisheries, 89th Cong., 1st Sess., ser. 8–13, at 599 (1965). In this statement, Mero further observed that: "The presently available mineral disposits (sic) of the sea could easily supply the population of the earth with its total consumption of manganese, nickel, cobalt, cooper, phosphorus, limestone, common salt, magnesium, bromine, fluorine, potassium, boron, sulfur, aluminum and various other less important minerals, as well as supplying substantial portions of its consumption of iron ore, lead, zinc, titanium, molybdenum, uranium, zirconium, and so on." Id at 600.

[2] S. Rep. No. 526 at 13.

that the 1967 Conference of the World Peace Through Law Center adopt the following resolution:

"Resolved, that this Conference recommends to the General Assembly of the United Nations the issuance of a proclamation declaring that the high seas appertain to the United Nations and are subject to its jurisdiction and control."

Respectfully submitted,

U.N. CHARTER COMMITTEE,
By AARON L. DANZIG, *Cochairman*.

PITTSBURGH SHOWS WAY IN WAR ON POVERTY

Mr. BYRD of West Virginia. Mr. President, the Washington Evening Star of August 24, 1967, carried a column by Charles Bartlett, entitled "Pittsburgh Shows Way in War on Poverty." Speaking as one Senator, I believe that the column calls attention to a misuse of the taxpayers' money in the so-called war on poverty.

I ask unanimous consent to insert the column in the RECORD.

There being no objection the column was ordered to be printed in the RECORD, as follow:

PITTSBURGH SHOWS WAY IN WAR ON POVERTY

(By Charles Bartlett)

PITTSBURGH, PA.—The lively pace of the attack on poverty in this city is a persuasive answer to complaints in Congress that federal money is being spent to stimulate militancy in the slums.

The crucial aim of Pittsburgh's highly successful community action program is to encourage the slum poor to make their complaints audible. Federal money is used to channel the aggressiveness of the black militants into constructive, effective protests that stop short of violence.

Thus the Mayor's Committee on Human Resources furnished experts who guide and advise protests that lead in some cases to marches on City Hall. Neighborhood branches of the Mayor's Committee give summer employment to young black power advocates with police records and encourage them to march at the head of protest parades.

This is not a restful way to wage the war against poverty. Thus encouraged, the spirit of protest runs high and Mayor Joseph Barr has to move fast to stay ahead of it. Militants employed for the summer with OEO funds talked of burning down the city's slums during one recent visit to his office. He has even been faced with a new political challenge against the Democratic city organization.

If Pittsburgh should erupt into riots, the men who run its poverty programs will have much to explain to critics like Senator John McClellan, D-Ark., who finds it hard to understand why militants should partake of the fruits of the anti-poverty war chest.

But the crucial task, as David Hill, director of the Mayor's Committee, sees it, is to focus public attention on slum complaints so that the whole city will be aroused by them. By giving support and direction and hope to the militants, Pittsburgh intends to avoid paying the price of their frustrations. So far it has worked.

Hill, himself a Negro who emerged from the slums, plays a uniquely free hand because the Mayor's Committee is dominated by 12 board members who vote as representatives of the poor. The mayor is a member but he is frequently outvoted.

However there is one thing Hill knows he cannot do and that is to act as a restraint upon the slum protests. Attempts in this direction will cause the poor to dismiss him as another "necktie nigger" and the Committee as a part of "whitey's" establishment. He and his staff can guide and sharpen the protests but they can't tell the poor to stop pushing.

In hiring militants, Hill considers a reasonable risk to be a man with some sense of values and an understanding of the larger problems. He does not harbor any illusions that he is buying their loyalty or changing their point of view. He is merely offering jobs and a legitimate challenge for their grievances.

A major gamble by the Northside branch of the Mayor's Committee has paid off this summer. Hiring 150 youngsters with highly dubious backgrounds, the directors found that those with the longest police records and most aggressive attitudes have tended in the clutch to show the most leadership and responsibility.

A group of these "troublemakers" led an adamant demonstration against the City Health Department in July. Many, including the mayor, were apprehensive that it would explode into serious trouble. But the group walked 20 blocks on a hot day without even a surly outcry.

A more significant instance of backing militant protest with community action funds has been the assistance furnished by the Mayor's Committee to a crusade against slum housing that is widely known in Pittsburgh as CASH.

This is a "war" on slum lords and the activity by CASH, including preparations for a citywide rent strike, have wrung impressive concessions from the Board of Realtors and confronted the Pittsburgh public with the issue of slum housing.

The Mayor's Committee allocates funds to pay the staff that guides CASH. It is actually run by the slum residents themselves and they have inspired some of Pittsburgh's finest clergymen to take aggressive roles in their behalf.

Agitation for social change is unquestionably being stirred in Pittsburgh with federal money. The agitation supplies the people in the slums with what every human being requires, a chance to be hopeful about the future. If this be treason, Congress can make the most of it.

PRESIDENT JOHNSON TAKES THE VIETNAMESE ELECTIONS OUT OF AMERICAN POLITICS

Mr. INOUYE. Mr. President, by accepting the invitation of the Government of South Vietnam to send a team of American observers to witness coming elections, President Johnson has effectively taken the South Vietnamese elections out of American politics.

And that is where they belong.

The Vietnamese election should not have become an American political issue since it is the internal affair of another country in a most fundamental sense.

President Johnson has asked a distinguished group of Americans to travel to Vietnam and stay for the period of the campaign and the election. The group represents all political parties, local government, business, labor, veterans, the church and synagogue—in short, an excellent cross section of the American population.

I understand that the Government of Vietnam has also invited observers from other allied nations. This demonstrates that the South Vietnamese Government is not afraid of world opinion unlike its Communist neighbors to the north. The Government of South Vietnam weeks ago invited United Nation observers for the elections. The foreign press has also been invited without restrictions.

In short, the Government of South Vietnam is demonstrating that it welcomes an open election and observers from all over the world.

This is much more than many other countries might do while in the middle of a hot war.

I applaud President Johnson for this endeavor, which effectively takes the South Vietnamese elections out of American domestic politics, and places them in the spotlight of world opinion.

TYLER, TEX., COURIER-TIMES SUPPORTS SCENIC RIVERS BILL

Mr. YARBOROUGH. Mr. President, for the many people who are deeply concerned for the fate of our natural resources, the recent passage by the Senate of the scenic and wild rivers bill, S. 119, was an occasion for great rejoicing. The recognition of the necessity of preserving certain segments of our waterways against exploitation and for recreational purposes marks an important step in the recent history of conservation in our country. The bill promises to enforce a sensible balance between industrial uses of the rivers and their appreciation as valuable scenic attractions in their untouched states.

Naturalists in the vicinities of the 28 rivers under study as "scenic rivers" are enthusiastic about the benefits to be gained from the protection of these rivers established by this bill. The Tyler Courier-Times of Tyler, Tex., in a fine editorial, has endorsed the Senate Wild and Scenic Rivers Act and has suggested that it should serve as an example of sensible and constructive efforts in the area of conservation.

I ask unanimous consent that the editorial published in the August 17 Tyler Courier-Times be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SCENIC RIVERS ACT WOULD HALT ABUSIVE EXPLOITATION

Good planning is in evidence in the Wild and Scenic Rivers Act introduced in the U.S. Senate as bill S. 119 by Senator Frank Church, D-Idaho.

The bill establishes a national wild river system to be administered by the Secretaries of Agriculture and Interior, jointly with the states, for studies to preserve key natural river areas for water conservation, scenic, fishing, wildlife and outdoor development.

Senator Ralph W. Yarborough of Texas is a co-sponsor of the bill. He also offered an amendment, which was approved, to include a portion of the Rio Grande River bordering Texas under the Act.

In offering the amendment, he quoted from a Texas Explorers Club resolution which said:

"The hasty and inadequately considered damming of our few remaining flowing streams and the criminal abuse of our few remaining spots of wilderness and natural beauty constitute a stain upon the honor of the United States and must be corrected with all haste."

The Yarborough amendment adds the section of the Rio Grande from Presidio to Langtry to the list of 27 other rivers to be studied for possible protection from damming and extensive industrialization under the act.

The Guadalupe River of Texas is also included.

Again we endorse this Act as good planning on a national level, and it is good to see Texas areas included.

This also could serve as a good example

for Texas Legislators to follow in regulations for shell dredging along the Texas coast.

Shell dredging operations have in the past been carried out in an indiscriminate manner along coastal areas of Texas.

Such unregulated procedure not only spoils scenic beauty, it also upsets fishing operations by removing the natural bedding of much sea life.

It would be well for Texas legislators to observe and remember that conservation also can be carried out at home.

VIEWS ON OVERPROTECTION OF CRIMINALS

Mr. BYRD of West Virginia. Mr. President, this morning's issue of the Washington, D.C., Post, August 25, provided some excellent food for thought with regard to the problems of overprotection of criminals in our present-day courts.

The column, "Potomac Watch," prepared by William Raspberry, under the titling, "Jurist Cites Problems in Overprotection of Criminals," points out a thought that has lain obscured for too long in the United States. It quoted Judge Warren E. Burger of the U.S. Court of Appeals for the District of Columbia as saying:

But governments exist chiefly to foster the rights and interests of its citizens—to protect their homes and property, their persons and their lives.

If a government fails in this basic duty, it is not redeemed by providing even the most perfect system for the protection of the rights of defendants in the criminal courts.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the newspaper article was ordered to be printed in the RECORD, as follows:

JURIST CITES PROBLEMS IN OVERPROTECTION OF CRIMINALS

(By William Raspberry)

When people start to talk about the causes of the Nation's spiraling crime rate, the U.S. Courts of Appeals are often singled out as major culprits.

The appellate courts, the critics complain, have become so preoccupied with protecting the rights of the accused that they have quite forgotten the rights of the law-abiding citizenry.

Now the critics have been joined by a member of a "culprit" court—Judge Warren E. Burger of the U.S. Court of Appeals in the District of Columbia.

Speaking recently at Ripon (Wis.) College, Judge Burger recounted the development in our legal system of protection for the accused. In general, he considers the legal safeguards valid and just.

"But governments exist chiefly to foster the rights and interests of its citizens—to protect their homes and property, their persons and their lives," he said.

"If a government fails in this basic duty, it is not redeemed by providing even the most perfect system for the protection of the rights of defendants in the criminal courts."

Our legal protections, that is to say, may be too much of a good thing.

Says Judge Burger, generally considered a "responsible moderate":

"Our system of criminal justice, like our entire political structure, was based on the idea of striking a fair balance between the needs of society and the rights of the individual."

To implement this idea, we have instituted a system of checks and reviews of individual acts and decisions, and taken steps to reduce the risk that an innocent person will be convicted.

These, Judge Burger acknowledges, are pluses.

But our system also contains serious negatives, he insists. Among them:

Our criminal trials are delayed longer after arrest than in almost any other system.

Our trials, after they begin, are dragged on longer than in almost any other system.

Accused persons are afforded more appeals and retrials than under any other system.

We afford the accused more procedural protections—exclusion and suppression of evidence and dismissals for irregularities in the arrests or searches—than under any other system.

The long delays and the uncertainty of punishment, Judge Burger says, create two serious problems: The lawabiding become enraged, embittered and frustrated; the criminals are encouraged in the belief that they can get by with anything. The whole system suffers as a result.

And all the talk that criminals don't read the opinions of appellate courts is beside the point, he insists.

"Of course they don't" he said. "But is the real issue whether people read the opinion, or is it whether the actions of courts, which are widely publicized, have an effect on public attitudes?"

And while we go to great lengths to furnish protections for the accused before and during the trial, we do virtually nothing to rehabilitate him after he is convicted, he said.

Judge Burger compares our system with that of Northern European countries like Norway, Sweden, Denmark and Holland.

He notes, first, that the crime rate in those countries is significantly lower than ours. (Sweden, with 8 million inhabitants, has about 20 murders a year; Washington, with one-tenth Sweden's population, has eight times as many murders.)

Why the difference? He suggests that part of the answer may lie in the differences between the legal systems. He lists these as some of the important ones:

Northern Europe has significantly shorter trials, fewer delays and no lay juries. Criminal trials generally are held before three professional judges.

There is no counterpart to our Fifth Amendment.

They go swiftly, efficiently and directly to the question of whether the accused is guilty.

This last point is most important. One of the reasons why people have come to mistrust our courts is that too many people who are patently guilty—and may even have freely offered confessions to crimes—are let go.

Some of Judge Burger's criticisms can be met by the simple expedient of increasing the number of judges to reduce court dockets. But others go to long-held fundamentals and may even require constitutional amendments.

Judge Burger clearly considers it time to do whatever must be done to ensure swift and certain justice.

"VIETNAM: ITS EFFECT ON THE NATION"—ADDRESS BY MARRINER S. ECCLES

Mr. MORSE. Mr. President, on August 11, Marriner S. Eccles,, chairman of the board of the Utah Construction & Mining Co., and former Chairman of the Federal Reserve Board under Presidents Roosevelt and Truman, spoke before the Commonwealth Club of California on the subject of "Vietnam: Its Effect on the Nation," in San Francisco.

The Commonwealth Club of California is one of the most important opinion forum discussion groups in our country. Its members consist of outstanding leaders in the fields of business, industry, and all the professions.

Mr. Eccles' speech received such an enthusiastic reception from this powerful audience that I believe it should receive a permanent place in the CONGRESSIONAL RECORD for future historic reference.

Therefore, I ask unanimous consent that it be printed in the CONGRESSIONAL RECORD at the close of my remarks.

In my opinion, the speech is a logical, penetrating, unanswerable rebuttal to many of the rationalizations that the administration advances in justification of its foreign policy in Southeast Asia.

I hope every Member of the Senate will read it.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

VIETNAM: ITS EFFECT ON THE NATION

(By Marriner S. Eccles, at the Commonwealth Club of California, San Francisco, Calif., August 11, 1967)

The Kosygin visit to this country has given us all cause to seriously think about the Soviet Union, our relationship to it, and the relationship of both of us to the greater and more compelling world problems. Upon the solution of these problems hangs the survival of both the United States and Russia, and perhaps the world. As Senator Fulbright so aptly stated: "America is showing signs of that arrogance of power which has afflicted, weakened, and in some cases destroyed great nations in the past." Never before has there been such valid reason for the fears that beset us. Never before has there been reason to feel that the human race was speeding along the road to possible oblivion.

The most important issue before the country today is our involvement in Vietnam. It affects every facet of our lives and our relationship to the rest of the world. Are the sacrifices imposed justified by the stakes of war? What are the reasons and justification, if any, for our involvement in Vietnam?

For the past twenty years our government has believed that communism intends to conquer the world—by force, if persuasion does not succeed—and that it is the duty of the United States to save the world from that fate. The American picture of aggressive communism is unreal.

The President believes that aggressive monolithic groups are making war in South Vietnam. Under the Truman Doctrine of Containment, communism has continued to spread. It has advanced through revolutions rather than by military aggression. But while communism has been advancing, the power of Russia over the communist world has been waning. It is evident that communism is not a monolithic world power. Russia has its differences with the Yugoslavs. The Chinese and Russians have conflicts of national interest which override communism. The threat of a united communist world does not exist. National rivalries divide the communist states as well as democracies.

It is apparent that communist countries are as intensely nationalist as others. They crave independence and resent interference. They will fight against domination—from whatever source: either capitalist or other communist country.

The Administration believes that the war in Vietnam is being made solely by communist intervention from without. This does not explain the tenacity of the Viet Cong. They are not Russians, Chinese or North Vietnamese communists; they are South Vietnamese. They are fighting for national liberation and unity of South Vietnam: the causes for which others, including Americans, have fought.

We see every rebellion as the result of a deep plot out of Moscow or Peking, when it usually is the result of crushing poverty,

hunger and intolerable living conditions. The aim of revolution, no matter what ideology, is to achieve the values of self-determination, economic security, racial equality and freedom. Let us not forget that while our road was not via communism, we did, as a nation, emerge from revolution.

We might as well face it: there may be more communist countries in the world. But we need not panic at this. Communist nations vary widely; each has a different version of communist theory to fit its own problems. The more of these countries there are, the greater their diversity.

Communism is only part of a broad movement: the rising of desperate people in Asia, Africa, and Latin America. We crush insurrection in one place, only to find a revolution—whether communist, socialist or nationalist—springing up somewhere else. With military bases around the world and ships in every ocean, a revolution takes place in Cuba, 90 miles off our shore.

How can we reconcile what we are doing to the South Vietnamese under the guise of saving them from communism? We have destroyed vast areas of their country. We have killed, wounded or burned more than one million children, as well as countless parents, brothers, husbands and sons. The family has been smashed. We can only guess at the terrible long-range social effects that will result from our actions. No wonder the great majority of the people do not consider us their savior, but hate us and want us to get out of their country.

Despite this, the United States military has increasingly taken over the war. In 1965 one American was killed for eight South Vietnamese; in 1966, one for two; and to date in 1967, one for one. U.S. casualties through 1966 were over 8,000 killed and almost 38,000 wounded. Projected for 1967 alone, based on actual figures for the first six months: 11,190 killed; 64,264 wounded, making a projected total to the end of this year of 19,344 killed and 102,002 wounded. We have lost 832 planes as well as hundreds of helicopters.

Based on the following reports by McNamara it is apparent we are making little progress after three years of fighting and cannot win a decisive victory:

In 1964: "McNamara told Congress that the U.S. hopes to withdraw most of its troops from Vietnam before the end of 1965."

In 1965, he said: "It will be a long war."

In October 1966, he said: "I see no reason to expect any significant increase in the level of the tempo of operations in South Vietnam."

Communist strength in South Vietnam has increased from 120,000 in January, 1965, to an estimated 298,000 at present. However, North Vietnam has committed only one-fifth of their regular army. Based on the estimate that guerrillas must be outnumbered four to one, the communists have more than matched the American buildup to 476,000 now. It is no wonder that General Westmoreland claims he needs five additional U.S. divisions: more than 200,000 men.

Tuesday the press reported General Van Thieu said: "We have not enough Allied soldiers which we need to win the war. We need a big amount of troops to be everywhere, to do many jobs at the same time." At this time the President might reconsider his September, 1964, statement: "We don't want our American boys to do the fighting for Asian boys. We don't want to get involved . . . and get tied down in a land of war in Asia."

During the past two years Russia has added to the enemy arsenal in South Vietnam rockets, artillery, heavy mortars, automatic infantry weapons and flame throwers, while in North Vietnam she has supplied fighter planes and antiaircraft guns. She is reported to be supplying 75% of all military supplies and has said she will continue to furnish all military aid necessary. The Chinese are furnishing part of the small arms, clothing and food, and have said they will assist North Vietnam with troops whenever requested to do so. Both countries have indicated they would enter the war, if necessary, to keep the North Vietnamese and the Viet Cong from being defeated. It is quite apparent that neither Russia nor China are willing for the United States to achieve a victory over the communists and to establish a powerful military base on the mainland of Asia.

If Russia were conducting daily bombing raids against an American ally, as we are doing against a Russian ally, it is inconceivable that we would limit ourselves to providing only military equipment, as they are doing.

What is the effect of our Vietnam policy on the nation? It is responsible for the most serious economic, financial and political problems in this country. It is causing the huge federal deficit which, without a tax increase, could run to more than $25 billion. In order to curb the resulting inflationary pressures the government has proposed a 10% surtax on individuals and corporations, which, if enacted, would reduce the deficit, on an annual basis, between $9 and $10 billion.

This war is directly causing a substantial increase in the deficiency in our international balance of payments, which is already serious, as we are by far the world's largest short-term debtor, now owing nearly $26 billion. It is reducing our free gold to meet these obligations to less than $2 billion.

It is creating inflationary pressures in nearly every field—increased costs of living, going up at about 3% per year—a great shortage of skilled workers—increasing strikes and exorbitant demands by union labor—and higher interest rates, in all categories, due to the heavy demand for credit.

The costs of war do not end with the cessation of hostilities. Excluding the Vietnam War, at the end of 1965 we had approximately 20,600,000 veterans. Total veterans' benefits paid to the end of 1965 were $134 billion; by the end of this year it is estimated they will be $147 billion. In 1966 we were spending in excess of $6 billion per year for veterans' benefits, and the Korean War alone is costing more than $700 million a year. The annual operating expense of the Veterans' Administration hospitals has now passed the billion mark. In addition, during 1965 the land and construction costs of medical facilities was $1,418,000. Veterans costs will grow rapidly as long as the war lasts, and will continue for decades. The ultimate astronomical expense is difficult to conceive. In the financial sense, a war is never over.

The real tragedy is not financial, it is the useless suffering of the millions of our people whose sons, husbands and brothers are drawn into this useless conflict unwillingly and are killed and maimed for life—*not* in defense of their country—but because of our incompetent and ill-advised leadership.

I believe Russia is glad to see us bogged down in Vietnam, diverting multi-billions of our resources and millions of our manpower, while she is rapidly gaining in the nuclear arms race. While the U.S. lags in its nuclear defense, the Soviets are rushing ahead. It is believed today's nuclear balance has already shifted to Russia.

At a time when defense against missile attack is still in the talking stage in this country, the Soviet Union is racing ahead with unprecedented speed.

Of even greater concern to us at this time is China's rapid growth in the development of nuclear weapons. It is now estimated that between 1972 and 1975 China will be a first-class nuclear power with a full arsenal of H-bombs and war heads. ICBM will be in production with an intercontinental range of 6,000 miles. This would hit most of the world; the northern stretches of the U.S., Los Angeles, San Francisco, Chicago and Detroit would be particularly vulnerable. Meanwhile, we are spending over $2 billion a month on Vietnam instead of being prepared to cope with the rapidly growing atomic strength of Russia and China.

Our foreign aid since World War II has been $128 billion—$91 billion in economic aid and $37 billion in military aid—with dubious results in many instances. The United States is pledged to defend 43 countries under specific treaties and agreements. In addition, a commitment to stop aggression covers all the countries in the Middle East, and any country where the U.S. has a military base is promised support.

While we've been spending tens of billions abroad, our cities are exploding in violent protest as a result of our injustice, and neglect, and failure to meet unfulfilled promises of the "Great Society." Our total estimated Vietnam and foreign aid budget this year is $30 billion; whereas, the Great Society budget is approximately 40% of that amount—$12.5 billion—which is half of what we spend in Vietnam alone.

Senator Percy says: "If we continue to spend $66 million a day trying to save the 16 million people of South Vietnam while leaving the plight of 20 million urban poor in our own country unresolved—then I think we have our priorities terribly confused."

Public and Congressional reaction relative to our world-wide involvement, especially in Vietnam, is forcing the Administration to reconsider its role as world policeman.

The horrible Vietnam debacle, tragic as it is, may yet be a blessing in disguise if it forces us to recognize our staggering failures at home. Runaway crime, delinquency, the riots in our cities, loss of respect for law and order, and the rebellion of frustrated youth—all spring in part from this. No wonder Russia had this to say about the U.S.: "Only in mockery can the word 'free' be applied to a society which cannot provide tolerable living conditions and democratic rights to a considerable part of its population."

It is tragic that the most powerful country in the world, with 6% of its population and producing 40% of its wealth, should have lost the respect of most of the world. The world, with few exceptions, would like us to leave Vietnam. The continued confidence and good relation with Japan, our greatest asset in Asia, is dependent upon our getting out of Vietnam. The same is true with all the Western European governments and our friends in Latin America. We cannot survive, no matter how powerful we are, in a world without friends.

With these disastrous effects on the nation to continue our ruthless pursuit in Vietnam is madness. To withdraw is sanity. The consequences of withdrawing cannot possibly be as disastrous for this nation as pursuing our present course. The greatest service we could render the Vietnamese is to withdraw from their country, leaving them to negotiate a conclusion to the war, which is their right.

There is something intrinsically wrong with the idea that the United States should participate in negotiations to decide the future of Vietnam. We are an outside power, which is true also of China and the Soviet Union. To have the future of Vietnam decided by outside powers is a violation of self-determination. Whatever negotiations go on should be among the Vietnamese themselves—each group negotiating from its own position of strength, uninfluenced by outside powers.

If the U.S. insists on negotiating, it should be with Russia and China, as the sinews of war are being furnished by these countries, without which the war would collapse. In any case, the United States cannot negotiate strength for any future segment of government in South Vietnam. The presence of

the United States can only distort the true balance of forces, and only a settlement which represents this balance can bring about a stable government.

No one seems to be able to show in what way a communist Vietnam would be bad. Under Ho Chi Minh, Vietnam would be quite as likely to enforce its independence as has Tito in Yugoslavia, Rumania, and other Russian satellites. Ho Chi Minh is unquestionably the choice of the Vietnamese people, both North and South. Both President Kennedy and Eisenhower have stated that had the election called for under the Geneva Treaty been held in 1956, Ho Chi Minh was so popular he would have won by a large majority. While Ho Chi Minh is a communist, he is not Russian, he is not Chinese, he is Vietnamese—and Russian, Chinese and Vietnamese communism may differ widely. It is even possible that our best interests would be served by having Ho Chi Minh's communist regime as a buffer against the Chinese communists.

History does not show that a nation that liquidates a bad venture suffers from loss of prestige. Proud, powerful England surrendered to the thirteen American colonies and did not suffer for it. More recently, France moved out voluntarily from Algeria and Indochina. Today she has more world prestige than ever before. Russia pulled her missiles out of Cuba; her prestige has not suffered.

Hans Morgenthau has written: "Is it really a boon to the prestige of the most powerful nation on earth to be bogged down in a war which it is neither able to win nor can afford to lose? This is the real issue which is presented by the argument of prestige." We should be less interested in saving face and more interested in saving lives. It is possibly not easy for a proud nation to admit it has blundered, but throughout history great men and nations have gained stature by so doing.

Getting out of Vietnam will enable us to re-establish a friendly relationship with Russia and thereby bring about a balance of power in the world, which would tend to deter any aggressive policy on the part of China. So long as we are in Vietnam, Russia and China consider us their enemy. Kosygin made this crystal clear in his statement before the United Nations and in his conference with Johnson at Glassboro.

We should also recognize China diplomatically and open our doors to trade and travel and help bring her into the United Nations. We should no longer ignore one-fourth of the world's population as though it did not exist.

In conclusion: What can we expect from the stricken Vietnamese nation but hatred, deep and abiding? Their farms and villages have been laid waste, their families scattered to the winds. Their husbands and sons are dead, maimed or missing. And children, orphaned and grotesquely burned, have been seen running through the rubble in packs.

We can never blot out the deed which stands as a testimony of man's inhumanity to man. Nor can we really make amends for the enormity of our crime against these people, who know us not, but whom we have chosen to save from communism.

But we can try. We can make a beginning. And, in conscience, how can that beginning be less than immediate withdrawal of our evil presence, because that is what it has proved to be in the lives of the Vietnamese. And we can humbly, with vigor, and never ceasing, do everything in the power of a rich and repentant nation to heal, and rebuild, and reassure.

The Vietnamese will never forget us, and it is to be hoped that we will never forget the Vietnamese. Because it is this Vietnam tragedy which has shown us ourselves as others see us: a nation to be feared instead of loved, flushed with pride and sure of omnipotence. An arrogant nation, not qualified to handle power wisely.

While the hour is late, it is not yet impossible to turn the page. Men and nations have made new beginnings before. And out of defeat, there has often come victory—and what a victory it could be for this nation, so bountifully endowed—to reverse its image, make itself loved and admired and revered, so that it could stand forth before the emerging peoples around the globe, as an example of what they might wish to become.

But the road is long—and we must win much forgiveness. So let us begin.

PRESIDENT JOHNSON AND VIETNAM

Mr. SMATHERS. Mr. President, while visiting in Canada the other day I read in the Montreal Gazette, one of Canada's leading newspapers, an editorial which I commend to my Senate colleagues. The editorial, entitled "President Johnson and Vietnam," points up a seldom brought out fact; namely, that U.S. presence in Vietnam has stabilized Asia, permitting many nations in that area of the world to concentrate their resources and energies on solving their own economic and social problems. The editorial further, and I think correctly, suggests that our troops in Vietnam have been an influencing factor in the present internal struggle which is taking place in China, deterring the hard-line Maoists from embarking on a course of unbridled aggression against China's neighboring countries.

At a time when President Johnson is being criticized by both sides for his conduct of the war, this thoughtful editorial very convincingly presents the merits of the "middle way" in approaching and hopefully bringing an end to the war in Vietnam.

I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

PRESIDENT JOHNSON AND VIETNAM

Another round in the Vietnam debate was heard this past week in Washington and all the principal participants took the rostrum again, joined by some new faces. The reason for the latest round was President Johnson's announcement of an increase of 45,000 troops for Vietnam, plus a 10 per cent surtax to help defray the huge budget deficit.

The old debaters, including Senator William Fulbright, reviewed their arguments against the American presence in Vietnam, and the futility of it. They say the war is not being won, and there is little prospect of it ending in a year or even a decade. Vietnam is a black mark on the American record and the best approach for the American administration would be to cut its losses and pull out.

On the other side, where criticism did not follow a consistent line, a new consensus seems to be emerging. One of the chief spokesmen of this group is House Republican leader Gerald Ford. He accused the President and the Administration of prolonging the war by putting nearly one-half of the Air Force's top priority targets off limits. Until these restrictions are lifted, he said, there is no justification for sending one more American to Vietnam.

The critics approach the problem differently, but they are playing one common theme—fear of the future. It is a war seemingly without an end. The future is unknown, and fear of the unknown, politically, is a potent weapon. Both sides are using it against the administration, with great effect, as the latest public opinion polls show.

But Senator Fulbright, on the one side, and Representative Ford, on the other, have failed to bring up the past. What effect has the Vietnam war had on world peace and order, particularly stability in Asia? Is there not an argument to be made that if the Americans had not stepped into the Vietnam breach 30 months ago with huge supplies of troops and material, Asia would be in a different position today?

There is no way of knowing for certain what Asia would have experienced if the Americans had not responded in Vietnam, as there is no way of knowing what the future holds for Asia. The only certainty is that Asia is relatively stable at the present time and the stability is allowing such countries as India, Indonesia and Malaysia to concentrate their energies on more meaningful and fundamental problems of existence.

One of the reasons why there is stability is that Communist China, the largest and most powerful country in Asia, is preoccupied with an internal debate about its own future. It could be argued that the presence of the U.S. in Vietnam helped to start the debate within China. At least one of the issues in the debate apparently is whether China will choose to deal with the United States in the future—whether it will turn inward or outward.

This debate (or revolution) is the most important single event in Asia. The Vietnam war has taken second place. Any significant change in the American position there, as long as the Chinese internal struggle remains unresolved, could tip the balance of that struggle.

A pull-out by the United States probably would give heart to the hard-line Maoists in China. On the other hand, if the United States unleashes all its destructive power on North Vietnam, these same reactionary, insane elements in China might over-react.

President Johnson cannot afford to take the advice of either of the two opposition groups, especially at the present time. He must be cautious in applying the pressure, in displaying determination, while showing restraint.

He has chosen the middle way, and it is the most difficult course at the moment, when on the one side he is being accused of using his power arrogantly and on the other side of using it timidly.

DANGER FACING NATION'S SCHOOLS?

Mr. BYRD of West Virginia. Mr. President, the magazine U.S. News & World Report recently printed an interview with Dr. Carl F. Hansen, former Superintendent of Schools of the District of Columbia.

Dr. Hansen spoke of the danger presented by "social activists" on our courts and of the threat they pose to free public education.

That this article may be more generally read, I ask unanimous consent that it be inserted into the RECORD.

There being no objection, the article was ordered to be printed in the RECORD.

DANGER FACING NATION'S SCHOOLS?

(Interview with superintendent of schools in Nation's Capital)

(NOTE.—Federal control of local schools is the danger a prominent educator sees in U.S. court orders and the agitation of "social activists."

(It is time, he says, to "get off the racist binge" and return the schools to their basic job of teaching children.

(Dr. Carl F. Hansen won praise for desegregating Washington schools 13 years ago. Now he is retiring in protest against a court ruling that orders still more changes in the school system.

(In this interview, held in the conference

room of "U.S. News & World Report," Dr. Hansen tells why Washington's school problems raise basic issues of importance to the entire nation.)

Q. Dr. Hansen, you have had 13 years of experience with integration in Washington schools. Out of that experience, what is the major conclusion that you have drawn?

A. I think the main conclusion is that integration is a possibility if we forget about race in relation to it. What we have to deal with, I think, is people—people having different degrees of development and capacity to improve themselves. And I think we should get off the racist binge that we've gotten into the last few years.

Q. What has stimulated this "racist binge," as you call it—the Government?

A. It seems to me that Government is involved to some extent in apparently encouraging—particularly through the antipoverty activities—a response that is based pretty much on economic status and race. So, in this respect, the Federal Government may be quite heavily responsible for what is going on.

A possible outcome in this situation, I think, is class warfare—class in terms of money, status, economics—the idea that I've got more money than you, therefore I should share some of it—and race.

The most unwholesome part of the current racist emphasis is that it discourages the process of integration.

Q. What is integration?

A. In my judgment, integration is simply defined as the capacity of people to be together without being conscious of race—the appreciation of each other regardless of race or economic status or religion.

Q. Are Washington schools integrated?

A. I would maintain they are, in that no child is ever denied a place or any activity because of race or creed or any other external condition. The children are all subject to the same rules and regulations in respect to where they attend school. And there is actually some degree of biracial membership in most of our schools. As many as 85 per cent of Washington children attend schools in which there are some children of the other race.

Now, of course, in some cases there may be only three or four white children in a school that's otherwise Negro. The integration factor there is not very strong if you think of integration as requiring some kind of arbitrary balance—for example, 50 per cent white and 50 per cent Negro.

Q. What do you think of this idea of seeking an arbitrary racial balance?

A. In my judgment, this is a ridiculous concept. And it's foolhardy, too, because you can never achieve it. You can't by edict declare that "you white folks are going to have to send your children to this school and you Negro parents are going to have to send your children to that school to get a racial balance."

Q. What do you see as wrong in this idea of moving children around for racial balance?

A. The basic flaw in this particular practice—I was about to call it philosophy, but I don't think it justifies that kind of term—is that the sociologist or whoever it is who conjures up such grandiose schemes is exploiting the children to accomplish what the adults are not willing to accomplish themselves.

In so-called ghetto areas, for example, parents often say, "Don't move us; move the children."

Q. In city after city, you find complaints about schools, and demands being made for changes in schools. Why is this?

A. The public schools are being made scapegoats, not only in Washington, but in New York, Chicago, Kansas City, Detroit, Cleveland. You can't escape the very clear evidence that the social and economic problems of the poor in the larger cities are being transferred to the systems of public education in those cities.

Schools are being asked to do what they cannot do.

Schools cannot remake a family, except, perhaps, by affecting the next generation. It's almost impossible for any sociologist, really, to reconstruct a family that has deteriorated.

Now, I have another belief which I can't really document, but which I think is fundamental and important:

It seems to me there is very close evidence that the concerted attack upon public education around the country may be motivated by the desire of people in high political office in Washington to set the pattern from which they would like to have education cut throughout the country.

Q. Do you mean their aim is for federal control over the local schools?

A. I think it is very clearly that—to break down regional or local control, to take the schools out of the hands of the people and centralize their management on a national scale.

Q. Who are the people who want to do this?

A. There are people who sit in the offices of the Office of Economic Opportunity and in the Office of Education who believe that they have a kind of omniscience—that they can see and do what ought to be done for the good of the whole country. They have said that to me, in conferences at the Office of Economic Opportunity where I protested certain requirements which intruded upon the rights of boards of education to make appointments and to conduct the operation of the Head Start program.

These men—well-intentioned, I am sure—say to me: "We can't be sure that boards of education will do these things right." So in the quiet of their offices they make patterns for education around the country.

The intention may be good, but I think the objective is tremendously dangerous to the very essence of our freedom, which is that schools be decentralized and locally operated.

Q. These people sitting in their quiet offices who, you say, are planning these things—what kind of people are they?

A. In my contacts with people from the Office of Education and HEW [Department of Health, Education and Welfare] I am impressed by the—let me put it in the most pleasant term—by the innovative aspect of their approach to education. For them, the old ways won't do. Just simply to have a teacher to teach youngsters to read in a direct manner—that's not acceptable.

They want change. These men are brought into these offices because they've got some kind of reputations for being innovators, for being imaginative. Put that label on any school man, and he can go any place he wants in the Office of Education.

In addition to that, it seems to me that we are seeing the social activists rising to dominance. Some of my severest critics here in Washington are social activists who are employed by HEW.

Q. What are social activists?

A. These are people, in my judgment, who first seem to make it their business to create disturbance—not physical violence, but disturbance; to be constantly critical of the establishment, the school system; to be involved in all kinds of group activities in stimulating very small numbers of parents to participate in the social revolution.

Now, I don't know what the people propose to do in terms of social revolution, but they seem to be bent on accomplishing change without, sometimes, being too much concerned about what that change is going to be.

Q. Is it only from appointed officials that these attacks on our educational system come?

A. Antagonisms sometimes come from very prominent Senators—whom I won't name—who give me the impression that their attitude toward free public education in the American style is so negative that they never miss a chance to deride it, to speak of it as a failure.

ABUSE OF EDUCATION

Q. What could be the end result of all this?

A. There is no one party in power nationally that can now use the schools to perpetuate itself in power. So you ask: Why this attack on public education?

I think there's a definite motive to disturb confidence in public education and in boards of education so that there can be an accumulation of controls in Washington. This may be a kind of benign despotism to start with, but I think ultimately it could be misused for such purposes as Hitler used education in Germany. You may remember that the first thing he did was to take over education of the young. Mussolini did this [in Italy]. The Russians have done it. The totalitarians perpetuate themselves in control through the use of the education of the child.

I have anxiety about this. It seems to me that these things ought to be thought about.

Q. Is federal money being used to break down local control over education?

A. Of course. The money from the poverty program—I'm talking here about Operation Head Start—has to be spent in accordance with guidelines laid down by the Economic Opportunity Office.

There is some flexibility in the Office of Education funds right now because I think that office is running a little bit scared at this time—they're frightened. But there are guidelines set down there, too—and I'm not talking here about desegregation.

I think schools ought to be completely desegregated in terms of *de jure* segregation [segregation by law or official policy]. But, even in this case, it seems to me that the guidelines for local people to follow are being set down by people who are a long way from the battlefield.

Rules such as U.S. Judge J. Skelly Wright has set down for the schools of the District of Columbia [on June 19] are actually a demonstration of judicial control over education.

Q. What do you think is going to be the effect of Judge Wright's ruling on the Washington schools?

A. The immediate effect is going to be inconsequential, because most of the things he ordered were already in the process of being done.

Judge Wright ordered abandonment of the track system of assigning pupils to courses of study according to their learning abilities. The school board obviously was going to abandon the track system anyway. Judge Wright did not have to tell them to do it.

The judge ordered busing of children from Negro neighborhoods into schools of the Northwest part of the city [a predominantly white area]. The board is already busing children into Northwest schools to relieve overcrowding.

The judge ordered the elimination of optional zones [in which pupils have a choice of schools to attend]. The board already had received proposals to eliminate the optional zones—not because we regarded them as racist in nature, but just because we don't need them now.

So, in terms of the court's decrees, the board was on the way to enacting them. But the long-term effect of the Wright decision is the hazard—the effect of every school-board decision being checked by the court, of the school board having to go to Judge Wright to get clearance on major policy questions allegedly involving desegregation. This is the hazard.

Whether the board can function effectively this way in the long run is a question. You don't know how many years this court control might last. It may last as long as Judge

Wright is on the bench here, because there is no apparent end to this control.

So, in my judgment, it is inevitable that the Washington schools will suffer uncertainty and chaos. I'm sure the principals must be wondering what is going to happen this autumn. They must be wondering how to organize.

Q. Do you think that one effect of all this might be an increase in the movement of white children out of the Washington public schools?

A. It is already accelerated. The private schools are being swamped by applications. There's a panic in those areas of the city affected, particularly in the Northwest sections—also among teachers who wonder what is going to happen to them.

Q. Are teachers thinking of quitting?

A. Yes—because, you see, under the judge's order to get more integration of faculties there may be an arbitrary transfer of many teachers. In a predominantly white school such as Eaton, for example, they may take 50 per cent of the white teachers out of that school and say to them, arbitrarily, "You go to this school or that school" which has mostly Negro pupils. And there would be the moving of a similar number of Negro teachers into mostly white schools.

This is the most unbelievable employment practice I could imagine.

Whether teachers will quit or not—well, some cannot afford to quit, because they have too much at stake in retirement benefits. But many will quit. Those who can retire will retire. Some are doing it now.

So, by this measure, it's going to be quite a different school system, even in September, than it was in June.

Q. Is all this going to make integration even more difficult in schools that are already 91 per cent Negro?

A. It destroys any possibility of integration, obviously.

VIOLENCE AMONG STUDENTS

Q. Enrollment records show that there are 31,317 fewer white pupils in Washington public schools now than there were 13 years ago, when the schools were first desegregated. What is the reason? Why are so many white families leaving Washington?

A. The main reason is that a school is the children in it, more than anything else. This is a concept that is hard to make clear.

Woodrow Wilson High in Washington is a great school because it has fine, middle-class, intelligent, concerned, well-motivated youngsters in it.

Now, the tendency of a parent is to regard this as a good context for the education of his child. This is not necessarily snobbishness or racism. It is a feeling that, first of all, the child will be fairly safe. He's not likely to be beaten or robbed—that sort of thing.

Q. Do such things go on in some Washington schools?

A. There is a great deal of that, yes. Not in the classrooms, actually. They are generally under good order. It is when children leave the classrooms that they get into these troubles—occasionally in the hallways or the playgrounds, but generally while going to and from school. Groups of children will waylay an individual child on the route to school. One of the Southwest schools had four or five incidents of that within a week's time.

Q. What causes this lawless behavior?

A. It tends to become a way of life, where even survival requires the capacity to fight back. I've had reports that mothers who go off to work tell their children to "hit back, fight back." Sometimes these children carry small weapons in order to protect themselves. It's a defensive kind of thing.

Then, apparently, when people live in great congested units, such as in public-housing units, feuds develop. Children are fighting battles in the halls, going into each other's apartments and committing acts of vandalism. They become hostile toward each other.

This is not a racial thing, you see. It's a condition of intense hostility, bitterness and anger which permeates the relationships of many children, particularly in congested housing—real slum dwellings, where there is nothing but anger surrounding them.

Q. How can you isolate pupils from this element?

A. Parents whose children are not capable of survival in this kind of situation want them in a school setting where they will be challenged mentally—not by the threat of physical violence. They want schools where they will be stimulated by others who are anxious to work and make good, by children who are motivated. They want schools where their children will not be held back by other children whose parents have not inspired them to perform.

Both Negroes and whites want that kind of school—and not solely the affluent or middle class, but also often the poor Negro and the poor white. A great majority of the poor want a school that is orderly and safe for children and where they will have a chance to learn.

Q. If Washington schools deteriorate, what is going to be the effect on the Negro middle class? Are they going to be squeezed out of the Washington schools, too?

A. They're already leaving as fast as they can—for the same reasons that the white middle class is leaving.

Q. If both white and Negro middle-class people are going to be fleeing these schools in even greater numbers, are we going to wind up here in Washington with schools attended exclusively by lawless elements, leaving the schools a "blackboard jungle"?

A. I want to avoid any impression that the schools are blackboard jungles. If you visit schools you'll find the classes are in good order. Occasionally you may find a teacher having some trouble with the pupils. But the school itself is not a dangerous environment.

What is dangerous is that so many of the children are unmotivated, with poor attitudes toward work or learning, so that middle-class Negroes and middle-class whites who want a more stimulating environment for their children spend every effort to get their children into private schools or go out into the suburbs of Maryland or Virginia.

DIFFERENCES OF ABILITY

Q. Are there important differences of ability among children?

A. I suspect that even going back to very earliest history this has been recognized as a fact.

There have always been generals and there have always been privates. Some people are capable of developing constitutions. Others are best able to build dams or repair machines. Ability differentials are taken for granted. We have very bright Negro children; we have very bright white children. We have very slow Negro children; we have very slow white children.

Let me give you an illustration: A white mother came to me about a year ago and said:

"I'm grateful to you for the track system. I'll tell you why. I have a very bright child, and this youngster is in the honors curriculum. I have a very slow child, and he is in the basic curriculum. The track system is supplying the needs of my entire family."

She was saying, in effect, what everyone knows: that the differential can occur within a family, by nature, by accident. There can be a child who needs special attention in terms of his limited intellectual capacity, and another child who needs special attention because he is very bright.

So the existence of differential in ability is extremely important in education.

Q. Is your so-called track system an attempt to deal with these differences?

A. Yes.

Q. Has it worked?

A. I think it has, but few now in control of schools seem to believe me.

Q. What is the track system? How does it work?

A. Actually, it's a very simple system based upon one primary principle, which is that every youngster needs to be taught strongly in the fundamental skills, whether he is intellectually gifted or whether he is intellectually handicapped.

In a class, you have to reduce the range of differences so the teacher can teach a narrower target—teach the child who has a handicap in reading some of the simplest reading techniques, but teach the child who can read 750 words a minute not just how to read but how to improve the quality of his thinking in terms of getting the meaning out of what he reads. This is the difference.

So we have four tracks—four sequences of study:

There is a program for children with severe retardation which we call the basic program. It stresses the basic skills.

The regular, or general program—where really the bulk of the children are—offers the usual variety of school subjects, but again the stress is on the academics, or fundamentals, which I think every child must have if he's going to be competent as a citizen.

For children who are planning to go on to college, there is the college-preparatory program.

Then there's the honors curriculum. If the child is gifted, willing to work, we offer him especially challenging courses, such as three years of mathematics—the top-quality math, not the easy stuff—four years of a foreign language, and so on.

Q. Can a child move from one track to another?

A. Of course. Many do. About 7 or 8 per cent a year made a significant improvement and moved up from the basic to the regular curriculum.

Q. Then why have some Negroes charged that the track system was used to freeze segregation?

A. That charge is one of the patently demagogic elements in the attack charging resegregation on the basis of race. In a school system which is 91 per cent Negro, how can you do that? What we were actually doing was to try to find means by which to improve the quality of learning.

Q. Why do Negroes say this system is unfair to Negroes?

A. We want to make this clear: It is chiefly the civil-rights leaders who say this. I think, actually, if the rank and file of the Negro parents really knew what the track system is, they would vote to keep it. But now the track system has been so belabored—it's made a scapegoat for every problem a child has—that I think the track system is useless in Washington.

Q. Is the criticism based on the idea that more Negroes than whites are in the basic track?

A. The contention has been that a principal would predetermine what a youngster was capable of doing by placing him in a certain slot—like mail. But this is not how it operates. There is a continuous guidance program. We have more guidance than ever before, more testing, more evaluation of pupils—and we are learning more about how to teach slow learners than ever before. Incidentally, there are special problems in learning how to teach gifted youngsters.

I would say that all of this is going to go by the board when the track system is eliminated.

Q. Is there some other form of grouping that might work and be accepted?

A. There probably will still be some form of ability grouping, but I'm not able to imagine what it will be. I'm going to have to leave that to the bright minds that are now guiding the board of education. I don't know what they are going to propose.

There are those, apparently, who dream of putting children together completely heterogeneously.

Q. Isn't there some form of ability grouping in nearly every American school?

A. Even within the elementary schools there is ability grouping. I think that people who believe that it is possible to avoid knowledge of the level at which school work is being done by dropping titles are naive.

ENCOURAGING MEDIOCRITY

Q. What is likely to be the effect of eliminating the track system?

A. The sad part about the loss of the honors curriculum is that this system identifies and stimulates high-level scholarship. I used the word "honors" deliberately when I introduced the program in 1955. Education had gone through a period when scholarship was rather unfashionable. The bright child was afraid to be too smart. Scholarship was not honored. The "honors" systems put the spotlight on scholarship—gave it distinction. I think it's been a good thing, because our honors students have performed very well on the basis of every standardized test given them.

Now all of this is to be submerged in mediocrity, where a bright child doesn't dare to be too bright, and where a slow youngster is pacified into believing that he's doing well.

When we took over the integrated schools in 1955, I found chemistry classes in the high schools that were offering no more than the simplest general science. The subject was called chemistry, and everybody was happy. But the pupils were living in a fool's paradise. As soon as they knocked on a college door, they were disillusioned.

So here is the dilemma: I don't believe that you can, in the long run, safely submerge the importance of scholarship. And I am sure you cannot submerge in anonymity the hazard of retardation. If you do, you let the children slip by and get a high-school diploma unchallenged by the fact that they really have not moved along, educationally.

Q. Why is it that some children just can't be brought up to advanced levels in school?

A. You're asking me a question that gets to the problem of nature, and how nature makes people.

Genetically, there are always people who have intellectual limitations. This is not a racial thing. We are talking here about a group of people—perhaps no more than 10 per cent of the total school population—who never actually are going to be able to do abstract mathematics, for example. I have taught youngsters like this. I have taught slow high-school students who were wholly unable, for example, to get the concept of agreement between subject and verb. The only way you could teach them would be to say, repetitively, "You were" not "You was"; and "They are," not "They is."

There is a point of view that asks: "Why can't you develop all youngsters into the genius class? Why can't you get them all ready for college?"

The answer is that you can't. This is simply the way things are. So the schools must develop a program which is geared to the way children actually learn.

Q. Is this a problem of home environment?

A. Some of this may be environmental. But we have tried to separate the child who has a cultural, environmental handicap from the child who has apparently a genetic, intellectual handicap. The child who has the environmental handicap can respond to more abstract instruction, and he is placed in the regular programs but given special assistance and special enrichment courses.

Q. What happens if you try to teach these slow learners in the same classes with fast learners?

A. The teacher has to make a choice. If she gives the kind of attention to the slow learner that he needs to make progress, then she's going to neglect the faster learner.

In this kind of heterogeneous class, what the teacher really does is teach the middle group—the average. She believes "the bright child will learn anyway"—and the very slow, she can't do much with—just lets them drag along.

Some people dream that if the slow child sits beside the bright one that some kind of osmosis will take place and he will become able to learn.

Q. What about the idea that Negroes will do better in school if they sit beside white pupils?

A. I think that is racist nonsense. It presupposes that the Negro is by nature inferior to the white man.

The so-called Coleman report [on a federally financed survey of educational opportunity] has been cited by the Office of Education as justifying the conclusion that a Negro child in a middle-class white school does better than a Negro child in a Negro school. The report does not justify such a conclusion at all. There is not sufficient evidence to do that.

Q. Then you don't think that just mixing the races in the classroom is the answer to Negroes' educational problems.

A. No, not arbitrary mixing. The color of children's skin should not be a factor in deciding what children go to school together.

REAL NEED: BETTER SCHOOLS

Q. Would it be more effective to pour more money and more teaching skills into the schools as they are, rather than trying to change the complexion of the schools?

A. This is exactly the only solution—improving the quality of schools in the poverty areas.

This is something we have been trying to do for the last 20 years in Washington. And we have succeeded to some extent, despite the common assumption that every school in downtown Washington is a rotten school. We have been putting in more teachers, giving children greater opportunities than they have ever had before. The idea that a child is being isolated in so-called ghetto schools is stupid.

Q. Where did Judge Wright get the idea he expressed in his decision—that Negro children and children in the low economic group have been discriminated against in terms of educational expenditures in Washington?

A. He misused statistics. Let me explain this:

We have a very limited number of schools in the far Northwest section of Washington where the pupil-teacher ratio is low because the enrollment is small. These are small schools.

Q. Are these predominantly white schools?

A. Yes. But some of the so-called white schools actually have a majority of Negroes, because the Negroes have come in on the open-school basis. For example, one small school with a $600-per-capita expenditure is predominantly Negro.

The point is that the cost of operating a building and supplying the principalship direction, the administrative cost, is measured against the number of pupils.

Apparently the judge took a half dozen of the small schools of the type that I have mentioned that were predominantly white and computed the per capita expenditure in those schools. Then he computed the per capita expenditure in other schools, larger schools, that are predominantly Negro. And he found a differential of, I think, $100 in per capita spending.

Now, statistically, this sounds overwhelming, and editorial writers have said: "Look, you are discriminating against Negro children in favor of whites."

But these few schools are statistically insignificant in relation to the total 85,000 youngsters in our elementary schools. And there is a really more accurate measure of school resources. That is: What are you doing for the schools in terms of adjunct services?

Most of the schools in the so-called poverty areas are receiving additional administrative aid in terms of assistant principals, counselors, librarians, and so forth. They get special reading instruction, other free services, and food—free lunches—none of which is computed in the per capita cost.

So we see here statistical analysis being misused to form a conclusion which is utterly unsound. The judge failed to point out that there are certain schools in Negro sections where the per capita costs exceed anything in any school in the most affluent section of the city. He also failed to point out that Woodrow Wilson, a high school in our most affluent area, is receiving less in terms of dollars and services than many high schools which are predominantly Negro.

Q. Does it cost more to educate children from poor, predominantly Negro areas than it does to educate children from more-affluent white neighborhoods?

A. There has to be what everybody calls compensatory education. A youngster with a handicap has to receive more attention. I'd like to point out that this is not a new concept in American education. For example, it is always more expensive to educate a blind child or a physically handicapped child.

The same, I think, can be said of the child who is handicapped by lack of proper food and clothing, or by a poorly structured home, or by situations in which he has not been properly developed or stimulated or motivated.

We have argued and worked—in Congress and every other source—for more money for the children with these special needs.

GENEROSITY OF CONGRESS

Q. Congress appropriates the money for Washington schools. Has Congress been responsive to your pleas?

A. Extremely responsive. The average annual increase for operating costs for the past five years was three times higher than for the five years before I became superintendent. In terms of construction, the capital outlay in the last three years has been about 18 million dollars. In the three years before I became superintendent the average was about 3 million dollars. You would think that people who were really working for the Negro and the poor would say: "This kind of support is pretty good. Let's be careful we don't lose it."

Q. What about the charge that Southern Congressmen are holding the purse strings and cutting down on the D.C. school budget?

A. This is a name-calling device which demeans the civil-rights movement and the people who use it. I reject the concept that the Southerner is automatically opposed to good education. It is pretty clear that the Congress has given an extraordinary amount of concentration and energy on improvement of education in Washington.

Q. How do Washington expenditures for schools compare with those in other major cities?

A. We are next to New York in per capita expenditure. We are above all the other major cities. This year the estimated expenditure per capita here will be $750. In 1957–58 it was something over $300. Spending has more than doubled.

Q. One of the things that Judge Wright questioned in his decision was the system of neighborhood schools. He suggested that, as presently administered at least, they result in harm to Negro children that cannot constitutionally be fully justified. Do you think neighborhood schools should be broken up to get more racial integration?

A. They should not be broken up, because a neighborhood school is the best educational device yet developed, just from the educational point of view. To break them up in order to get integration is a will-o'-the-wisp operation.

When you put Negro children in a forced mixture with white children whose parents are fearful, don't want them there, those parents are going to move their children out—even if they have to build private

schools of their own to do it. Enforced integration of this kind does not work.

IF SCHOOLS GET TOO BIG

Q. What about the idea of such integrational devices as educational parks, making them community centers?

A. You are talking about contradictory terms. I am strongly in favor of the community-centered school, and we have moved in this direction, with five of them partially organized. I have talked for 10 years about the 7-to-11 type of school—open at 7 in the morning until 11 at night. That is a community-centered school, where the community actually can come in and use it.

An educational park is the exact opposite. When you put a lot of children—as many as 15,000 of them—in a big school cluster, you separate them from their community. I'm utterly opposed to this.

Q. Another idea suggested by Judge Wright was that D.C. school officials explore the possibility of co-operation with the suburbs—a sort of merger of city and suburban schools to bring together Negroes from the city and whites from the suburbs. Would this really help?

A. I doubt that it would. We might get better racial statistics out of it. Instead of a school system 91 per cent Negro, it might be 50 per cent Negro and would look better on paper.

But I'm beginning to think that bigness is not a virtue, that it is a good thing to have smaller jurisdictions running their own schools. And I certainly cannot conceive of a totalitarian system of artificially moving children around by race, forgetting everything else that should be considered.

Q. In the light of recent federal court decisions, do you see the time coming when such changes might be forced upon the schools of this country?

A. Unless there is a reawakening of public responsibility with respect to what is going on. The inertia is terrific.

Even my desire to appeal this ruling of Judge Wright's is causing me great anxiety. Should I or shouldn't I appeal? With my announced retirement as superintendent, will I be accepted as an appellant? Many people have said they would like to appeal, but don't quite know how to do it.

Many people in all walks of life think that Judge Wright's decision is a disgrace to the bench, but they don't know what to do about it.

So unless there is some way that people can express their attitudes on these problems, it is very possible that courts will be running public schools around the country.

Q. One nationally known Negro leader said recently that the idea of improving schools is gaining priority among Negroes over integrating schools. Do you see any evidence of that trend of thinking?

A. Yes. There seems to be a definite trend in the direction of building quality schools where the children are. I see a great deal of evidence of that here in Washington.

For example, I have had an association with a group of Negro ministers who have been visiting with me periodically. These are ministers of local churches—not the civil-rights type of minister, such as you often find in Washington. They are completely opposed to busing for racial mixing. They want the type of school where children will be taught in a disciplined, structured way. They don't want this innovation nonsense, as they call it. They just want the children to be taught. And I believe they speak the mind of the bulk of Negro parents in saying: "Teach our children where they are, and teach them in the basic style."

Q. Yet this idea seems to be rejected by many Negroes—

A. You are listening to the voices of a few who have maneuvered themselves into control. They represent an extremely limited number of people.

Q. How did they get in control?

A. Through manipulation and behind-the-scenes activity. There is no question about it. I think other cities have not seen the change in the quality of their boards of education that has occurred here in the last two years.

ACTS OF INTIMIDATION

Q. Where do the average Negroes fit into this picture?

A. The good Negro, like the good white, is being tyrannized by fear. We have an atmosphere of intimidation in Washington such that the Negro who believes in holding to a line of strong, structured education is afraid to speak up.

I have received letters—anonymous letters from purportedly Negro teachers—who say that they are very sorry to see me and my methods leave the school system, but are afraid to say anything about it.

There is a level of intimidation now among some members of our own school board that is almost unbelievable.

I know of a principal who has been called late at night and castigated for an alleged error in administration.

Q. Called by whom?

A. By a member of the board of education.

I have seen letters written by an individual member of the board to principals and other school staff in which the school-staff members were severely taken to task for some action of which that board member disapproved.

At a recent board meeting, I am told that one of the new board members said to members of the school staff—highly respected educators:

"When we want you to talk, we will call on you. All you are to do is to carry out our orders."

Q. What kinds of organizations are involved in this intimidation?

A. Well, the only Negro rights group—and I'm not sure that it deserves this kind name—is the so-called ACT group headed by a man named Julius Hobson, who has a coterie of extraordinary personalities around him—many of them white. [Mr. Hobson brought the suit that produced Judge Wright's ruling.] For example, after a Negro board member voted for my reappointment, members of this group approached him in a threatening manner and called him an "Uncle Tom." Recently a Negro minister who spoke in my behalf before the board was surrounded and followed, with the group booing and yelling epithets at him.

Now this is a small group. But rational people are being silenced by a very small group of people.

Q. If their numbers are so small, why aren't they the ones who are being hooted down?

A. Because there is nobody there to hoot them down. It is coming to the point where the only people who come to board of education meetings are those in this little group of activists.

Q. Why is there so much question about the possibility of appealing Judge Wright's ruling?

A. The board of education has ordered me not to appeal. It said in effect, "If you appeal you will have to leave our employ—we will fire you." So I have submitted my resignation, which the board seemed happy to receive.

Q. Why are you so anxious to appeal the Wright ruling?

A. Because it is my deepest conviction that there are basic issues involved which should be tested in the highest court in the land. I have put my job on the line to back this conviction.

Q. What are the issues you think should be tested?

A. First, there is the court's challenge to the authority of the local board of education to run the local schools. For example, the order to abandon the track system is an invasion of the board's authority to decide how to organize the teaching system.

Judge Wright has now become, in fact, the board of education and the superintendent of schools. And I believe that the principle involved here is so deep that it has to be tested out—whether our local board has to run to Judge Wright with hat in hand with every proposal it is considering.

Unless this trend is checked, local management of schools is out.

Q. Do you mean that judges will become the rulers of the schools in this country?

A. Yes, by this means. I am sure the Wright decision will be a landmark decision for other court decisions.

I also want a higher court to check on Judge Wright's misuse of facts and the misconclusions he has drawn.

Then there is the question of *de facto* segregation. Without explicitly saying *de facto* segregation is unconstitutional, the decision so treats the question as to require the board of education to come to Judge Wright with plans for increasing racial integration.

The question of whether there is such a thing as unconstitutional segregation by economic class is also left vaguely handled in the decision. But the question is there. This could be the most far-reaching kind of determination that one could imagine. Will children have to be moved around for an economic mix as well as a racial mix?

These are questions of fundamental importance that one judge should not be allowed to settle alone.

OVERLOOKING THE STUDENT

Q. Dr. Hansen, in this country we are spending more money than ever on education. Do you think we are getting better education for our money?

A. I don't think we are now, because we are not getting adjusted to using the additional resources. I think Washington schools are a case in point. We have tripled our supervisory and administrative staff and our adjunct-service groups because we have the money to do it now. But we have robbed the classrooms of our best teachers. This has been a loss, though I think, a temporary loss.

But what we are suffering from is a deemphasis on the importance of the individual in the learning process.

We have lost sight of this very simple fact: When all is said and done, it is the learner himself who must do the learning, must supply the energy. You cannot supply that motivation by external social change.

PURCHASE OF WOOD PRODUCTS BY DEPARTMENT OF DEFENSE

Mr. MORSE. Mr. President, recently I received a letter from the president of the North Pacific Lumber Co., in Oregon. In his letter, Mr. David discusses the need for a provision in the Department of Defense appropriation bill that would restrict the purchase of wood products to industries in the United States. Mr. David's letter presents a clear and penetrating argument that I wish to share with all Senators.

Mr. President, I ask unanimous consent that Mr. David's letter of August 7, 1967, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NORTH PACIFIC LUMBER CO.,
Portland, Oreg., August 7, 1967.

HON. WAYNE L. MORSE,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR MORSE: Several of our customers have alerted us to a problem, and we want to be sure that you are aware of it.

Briefly, we understand that the U.S. De-

fense Supply Agency is advertising for bids on non-magnetic mine sweepers (Class of boat: MS 0523-538, bid No. IFB-N-00024-67-B-1040). The quantity we believe is in the area of 200 of these boats which would have to be built of wood to be non-magnetic.

It is reported that the Secretary of Defense would like to have England bid on these craft on an equal basis with United States' suppliers, but there is presently a rider on the 1968 Defense Appropriation bill restricting the use of funds to purchases in the United States; in other words, a "Buy America" provision.

Considering the desperate straits of our forest products industry, it is our opinion that the rider on the defense bill should be retained, assuming it is as described to us. Certainly the forest products industry in this country needs all the support and encouragement possible if it is to survive in a condition that will permit it to undertake the massive job of building new housing and rehabilitating existing housing that the economists predict will be mandatory in the next few years. For our own Government to look to foreign suppliers when domestic suppliers are in a depressed condition is really a low blow.

Since we have not actually seen any of the material cited above, all we can ask is that you exercise your best judgment in light of our comments.

Very truly yours,

DOUGLAS DAVID,
President.

THE TESTIMONY OF SECRETARY McNAMARA BEFORE THE MILITARY PREPAREDNESS SUBCOMMITTEE

Mr. SYMINGTON. Mr. President, I have great respect for Secretary McNamara, but if his testimony this morning before the Preparedness Subcommittee is right, then it would appear that the sworn testimony of every military leader that this committee and the Senate Armed Services Committee—Army, Navy, Air Force, and Marine Corps—have listened to is wrong.

If Secretary McNamara's present analysis and interpretation of the JCS target list is right, then the detailed military testimony we have received on this subject would also appear wrong.

These differences can be cleared up provided the testimony in these executive hearings is not too heavily censored. That testimony, and the subsequent report of this subcommittee based thereon, will then be given out to the people for their decision.

In any case, if the position as presented by the Secretary this morning is right, I believe the United States should get out of Vietnam at the earliest possible time, and on the best possible basis; because with his premises, there would appear no chance for any true "success" in this long war.

The gigantic price of this war, already running at a cost to the taxpayer of over $70 million a day, is badly needed to finance our other international and domestic problems and programs.

CHIPPEWA HERALD MAKES PERSUASIVE CASE AGAINST TAX INCREASE

Mr. PROXMIRE. Mr. President, the case against the President's proposed 10-percent surtax is as concisely summed up in an editorial from the Chippewa Herald-Telegram as I have seen it anywhere.

I ask unanimous consent that this remarkably perceptive editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

L. B. J. OUT OF LINE

President Johnson has asked the Congress for a surcharge tax increase of 10%, effective for the last quarter of 1967. While the Herald-Telegram understands what motivates the President to make this request, we agree with the chairman of the Joint Senate-House Economic Committee, Senator William Proxmire, that the President's request is out of line at this time. And we think that the Administration should re-evaluate its request, in light of the points that Senator Proxmire makes in defense of his case for no tax increase.

President Johnson has used inflation as his number one argument for his tax increase. He has also noted that we must pay for the war in Vietnam and for the goals of the Great Society, and we must prevent "tight money" and must reduce the budget deficit.

We agree wholeheartedly with the points that Mr. Johnson makes. All of these things must be done. However, as Senator Proxmire has pointed out, "It will not only be wrong, but foolhardy, to let rising prices panic the Congress into raising taxes."

Proxmire noted that if we raise taxes, prices will go up in any case. Furthermore, the Senator said that the economy has been "under paced" this year, and that it is possible, "that higher tax rates would depress, (the economy) even further."

In building his argument, Senator Proxmire noted that "excessive demand"—the classic cause for inflation—has not been the reason why the cost of living has risen thus far in '67. As measured by Gross National Product, GNP, figures, consumers, businessmen and government together grew by only $4.5 billion dollars in the first quarter of this year and only $9 million in the second quarter of '67—as compared by a quarterly growth average of $13.5 billion in 1966.

Senator Proxmire noted that the rise in the cost of living this year, unlike other years, has been basically centered in areas of food and medical care and services. And he pointed out that food prices fluctuate quite independent of consumer demand. He also noted that medical care charges have been rising sharply for a number of years because of the acute shortage of hospital space and doctors, and that other services have gone up as wage rates have risen.

Senator Proxmire sums up by noting, "Removing dollars from the hands of consumers and businessmen, by means of a tax increase, is not going to stop this kind of inflation."

Now, the Administration's economists do not dispute Senator Proxmire's analysis of what has happened so far this year, nor do they contend that a tax increase would stop food and service prices in their tracks.

Rather, as they gaze into their crystal ball, the administration see forces at work which, in their opinion, if they remain unchecked would push total demand up by $15 billion by the fourth quarter of this year. And since the United States' economy capacity to produce goods and services is growing at the rate of $12.5 billion a quarter, LBJ argues that $2.5 billion of the $15 billion achieved by the fourth quarter of the year would represent price increases, rather than more real goods and services.

Senator Proxmire refuses to buy this argument. He points out that there is no evidence yet that the GNP of the United States will grow 15 billion by the fourth quarter.

Moreover, the Senator concludes his argument by noting that the nation has a 4% unemployment ratio, and 15% of the national machinery is idle. Hence, Proxmire says, higher taxes could turn our already sluggish economy into a recession.

And all we can say, after hearing both sides of the argument, is that until the Administration can get more evidence to support its claims, Senator Proxmire certainly seems to have the best argument.

Taxes should not be raised.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, during the adjournment of the Senate following today's session, all committees of the Senate be authorized to file their reports, including minority, individual, additional, and supplemental views thereon, until midnight tomorrow, August 26.

The PRESIDING OFFICER. Without objection, it is so ordered.

HIGHWAY BEAUTIFICATION ACT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that, when it is reported, S. 1467, the highway beautification measure, be made the pending business of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL MONDAY

Mr. BYRD of West Virginia, Mr. President, if there is no further business to come before the Senate, I move that the Senate stand in adjournment until 12 o'clock noon on Monday next.

The motion was agreed to; and (at 2 o'clock and 3 minutes p.m.) the Senate adjourned until Monday, August 28, 1967, at 12 o'clock meridian.

NOMINATION

Executive nomination received by the Senate August 25, 1967:

U.S. DISTRICT JUDGE

Lawrence A. Whipple, of New Jersey, to be U.S. district judge for the district of New Jersey, vice Thomas F. Meaney, retired.

HOUSE OF REPRESENTATIVES

MONDAY, AUGUST 28, 1967

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord shall preserve thy going out and thy coming in from this time forth and even forevermore.—Psalm 121: 8

Eternal Father of our spirits, at the beginning of another week we pause a moment in Thy presence seeking guidance at Thy hand, strength for the day, and wisdom for the decisions we have to make.

May Thy blessing rest upon these Representatives of our people and may Thy spirit move within their hearts as they seek to promote justice in our land, good